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Superfund Records Center
SITE: Shpack
BREAK: 1109
OTHER: 252625



SDMS DocID

252625

*Also admitted in Massachusetts
*Also admitted in Connecticut
*Also admitted in New York

May 26, 2006

VIA FEDERAL EXPRESS

U.S. Environmental Protection Agency
Barbara O'Toole (HBS)
Search & Cost Recovery Section
Office of Site Remediation & Restoration
1 Congress Street, Suite 1100
Boston, MA 02114-2023

RE: Shpack Landfill Superfund Site
104(E) Request For Information Response Of Teknor Apex Company

Dear Ms. O'Toole:

This letter is submitted on behalf of Teknor Apex Company ("Teknor") and in response to the February 24, 2006 request for information ("information request") issued by the U.S. Environmental Protection Agency ("EPA") to Teknor Apex Company, pursuant to Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") with respect to the Shpack Landfill in Norton and Attleboro, Massachusetts ("Site").

Teknor received the Information Request on or about February 27, 2006. On or about March 8, 2006, counsel for Teknor, Bret W. Jedele, requested an extension to respond to the Information Request. On March 8, 2006, Audrey Zucker of EPA's Office of Environmental Stewardship, forwarded an email to Bret W. Jedele confirming that an extension was granted, and that Teknor's response was due on May 29, 2006.

A review of the administrative record for the Site indicates that there is significant misinformation regarding the liabilities of Thompson Chemical Company. Any information provided by entities other than the alleged successors to the Thompson Chemical Company is hearsay and unverifiable by actual documentation. This is the first full disclosure of the records clarifying the ownership of the Thompson Chemical

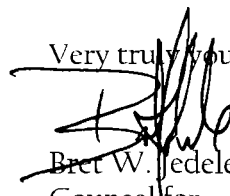
CR & F

Company liabilities, including fully annotated historic records. These records will clearly demonstrate that Teknor does not own the ongoing liability for the operations of the former Thompson Chemical Company ("Thompson Chemical") and/or Apex Tire & Rubber Company ("Apex") at issue at the Site because any and all Thompson Chemical liabilities rest with ConocoPhillipsCo., as the successor to Continental.

In September 1964 Continental purchased all of Thompson Chemical's outstanding stock. After acquiring Thompson Chemical, Continental liquidated and dissolved it. In so doing, Continental executed an Indenture Agreement stipulating to the assumption of all existing and contingent liabilities of Thompson Chemical. It also pledged that it would continue to operate the Thompson Chemical business as a going concern. In order for Teknor to be in any way responsible for Thompson Chemical liabilities, Continental would have had to expressly transfer those liabilities to Teknor sometime after September 1964. Continental had mechanisms available to it to transfer the Thompson Chemical liabilities to Teknor, however, it did not.

Submission of this response and accompanying documents is not intended and should not be construed as an acknowledgment or admission of any responsibility, fault or liability on the part of Teknor, or its affiliates, officers, directors, employees, agents or representatives, relating to the Shpack Landfill in Norton and Attleboro, Massachusetts, or any other site, or as a waiver of any rights, privileges or defenses with respect thereto, or with respect to any documents or information provided with this submission, including, without limitation, any objection to the use of any document as evidence or otherwise in any forum, all of which are expressly reserved.

The Information Request seeks to have Teknor sign a Declaration from a company representative. We could not find authority for this requirement in Section 104 of CERCLA or Section 3007 of RCRA. If, however, there is such authority, then please advise us of it and Teknor will respond accordingly. Teknor has engaged in a diligent effort to fully respond to the Information Request, to the extent that information is currently available. Teknor's response is based on an extensive search of historical records, as well as current and past employee interviews. Teknor will, of course, continue its efforts to locate additional information responsive to the Information Request and will respond accordingly in the event further information is discovered.

Very truly yours,

Bret W. Jedele
Counsel for
Teknor Apex Company

cc: Edward T. Massoud, Treasurer, Teknor Apex Company
David Yopak, Director of Regulatory Affairs, Teknor Apex Company
Audrey Zucker, EPA Office of Environmental Stewardship

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General Objections

1. Teknor objects to the Information Request to the extent that it seeks information protected from disclosure by the Attorney-Client Privilege and/or the Attorney Work Product Doctrine.
2. Teknor objects to the Information Request to the extent that it is unduly burdensome, overbroad, and seeks information that is not relevant to the EPA's basic inquiry.
3. Teknor objects to the Information Request because it exceeds the authority of the EPA pursuant to 42 USC § 9604(e) to the extent it seeks information other than: (i) the identification, nature and quantity of materials generated, treated, stored or disposed at the Site or transported to the Site; (ii) the nature or extent of releases or threatened releases at or from the Site; or (iii) the ability of a person to pay for or perform a cleanup.
4. Teknor objects to the Information Request and to the "Definitions" contained therein as overbroad, unduly burdensome and not likely to lead to the discovery of admissible evidence, nor relevant to EPA's basic inquiry.
5. Teknor objects to Instruction No. 7. 42 USC § 9604(e) grants the EPA with the ability to "ask the Attorney General to commence a civil action or compel compliance with a request or order...[t]he Court may assess a civil penalty...against any person who *unreasonably fails* to comply with the provisions of paragraph (2), (3) and (4)" [of 42 USC § 9604(e)] (emphasis added). To the extent that Instruction No. 7 confers upon EPA the authority to independently assess administrative penalties without a Court's determination of whether or not EPA has satisfied its burden of demonstrating an unreasonable failure to comply with paragraphs (2), (3) and (4), Teknor objects.

Notwithstanding the objections noted above, Teknor reserves the right to object on any basis or ground to the use, in whole or part, of any document or information submitted herewith in any proceeding or for any purpose.

The following responses are numbered to correspond to the questions posed by the EPA in the Information Request.

Consolidated Shpack Landfill 104(E) Site Information Request Response

Question 1:

- a) No information
- b) No information
- c) No information
- d) No information
- e) See response to question 10 (h)
- f) No information
- g) No information
- h) No information
- i) No information
- j) No information

Question 2:

- a) No information
- b) No information
- c) No information
- d) No information
- e) See response to question 10 (h)
- f) No information
- g) No information
- h) No information
- i) No information

Question 3:

a)
505 Central Ave
Pawtucket, RI 02852
90 Mendon Ave.
Pawtucket, RI 02852

290 Armistice Blvd
Pawtucket, RI 02852

(NOTE: Apex Tire & Rubber Company, a Rhode Island corporation, operated out of 505 Central Avenue prior to 1964 (for post 1964, See Response No. 10(i)). Land and buildings for 3 facilities identified above were purchased from Continental Oil by Elmgrove Corporation in 1968)

20 Industrial Road
Cumberland, RI 02864
(former Custom Color Company started in 1968, purchased by Teknor in 1985 and operated until 2004, at which time operations ceased at this location)

330 Oakhill Ave,
Attleboro, MA 02703
(Teknor Apex operating at this location after Elmgrove purchased land and buildings from Continental Oil in 1968 – Elmgrove merged with Thompson Apex and then changed its name to Teknor Apex (See Response No. 10(h))

Assonet, MA
Route 79
Freetown, MA
(commenced operation ~1964 and operated exclusively by Continental (now ConcoPhillips) as a Thompson Apex Company facility until sold (NOT to Teknor Apex Company) by Continental Oil in ~1968/69 to Olin Matheson)

Question 3(b) thru 5(c):

See Appendix A for 330 Oakhill Ave operations

See Appendix B for 505 Central Ave operations

See Appendix C for Teknor Color Company (a Division of Teknor Apex Company) Cumberland operations

Question 6:

- a) unknown
- b) unknown
- c) no documents available
- d) no record of waste disposal activity.
- e) unknown, no information
- f) company vehicles were not used for waste disposal operations
- g) unknown
- h) unknown
- i) unknown
- j) unknown
- k) no documents available
- l) unknown
- m) unknown
- n) unknown
- o) no documents available
- p) unknown
- q) to our knowledge waste haulers have always picked disposal locations
- r) personal interview with former employees

Question 7:

- a) unknown
- b) unknown
- c) no documents available
- d) no record of waste disposal activity.
- e) unknown, no information
- f) company vehicles were not used for waste disposal operations
- g) unknown
- h) unknown
- i) unknown
- j) unknown
- k) no documents available
- l) unknown
- m) unknown
- n) unknown
- o) no documents available
- p) unknown
- q) to our knowledge waste haulers have always picked disposal locations
- r) personal interview with former employees

Question 8:

See response to question 10(b)

Question 9:

- a) No records exist that confirm the disposal location of debris from the former Thompson Chemical facility fire and explosion.
- b) through interviews with current and former employees, the waste was believed to be of three types: building debris which is understood to be landfilled, location unknown, structural steel and process vessels remains were believed to have been separated and sent to recycling (Stateline Scrap, Pawtucket, RI was mentioned as a possible vendor), and finished goods (garden hoses and remains of PVC resin) from material stored in the destroyed warehouse adjacent to the manufacturing facility. Both were destroyed in the fire and explosion. Disposal location is unknown for all waste types, but believed to be local to the facility.
- c) unknown.

Question 10:

a)

Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852

b)

Herb Malin
Vice President
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Various positions; employed by Thompson Chemical ('56-'64), then by Continental ('64-'68), then by Teknor Apex after 1968; current employee

William Murray
Executive Vice President
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Involved with the company since 1978 at various positions, current employee

Jonathan Fain
President
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Involved with the company since mid 1970's at various positions, current employee

Victor Baxt
Vice President
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Various positions; employed by Thompson Chemical ('56-'64), then by Continental ('64-'68), then by Teknor Apex after 1968; current employee, part time, semi-retired.

Ron Sito
Human Resource Manager
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Involved with the company since mid 1970's at various positions

Marcel Letourneau
Warehouse Supervisor 1940's to 80's
508-761-8380
(NOTE: poor memory of early years activity, no useful information obtained, **died 5/22/2006**)

Arthur LaPerche
Maintenance Supervisor 1940's to 1970's
(NOTE: poor memory of early years activity, no useful information obtained), retired.

John Buono
Senior Scientist
Teknor Apex Company
505 Central Ave
Pawtucket, RI 02852
401-725-8000 (V) 401- 725-0987 (F)
Various positions; employed by Thompson Chemical ('56-'64), then by Continental ('64-'68), then by Teknor Apex after 1968; current employee; (NOTE: presently under medical care and unavailable. However he did provide information earlier regarding the activities of the company in the 1950's thru the present), current employee.

Ed LaFlamme
Plant Manager at former Teknor Cumberland, RI Facility and past employee of Custom Color Company (predessor to Teknor's ownership). Worked at that location from 1970 to 1977. Currently retired.
330-336-4499

Pit Gravel
Production Manager at former Teknor Cumberland facility. Worked at that facility at various positions from 1972 until 2005. Currently employed as Production Manger at Teknor's Jacksonville, TX facility
800-426-4009

c)

JM Mills (Peterson Puritan Site OU#2,) notified as PRP Feb 21, 2002
Cumberland, RI

Centredale Manor, notified as PRP March 3, 2003
Smithfield, RI

Solvents Recover Services, notified as PRP June 12, 1992
Southington, CT

Beede Waste Oil Site, notified as PRP July 31, 2001
Plaistow, NH

Shpack Site, notified as PRP June 7, 1990
Norton, MA

d)

JM Mills (Peterson Puritan Site OU#2,) request for information received on Jan. 13, 1999
Cumberland, RI

Centredale Manor, request for information received on March 30, 2001
Smithfield, RI

Solvents Recover Services, no information request found in file,
Southington, CT

Beede Waste Oil Site, request for information received on August 6, 1998
Plaistow, NH

David – GSR Landfill, July 13, 1992
Smithfield, RI

Shpack Site, no information request found in file
Norton, MA

e), f) and g) see answer for question (h) and (i).

h) See Appendix D and attached Exhibits.

i) See Appendix E and attached Exhibits.

Question 11:

a), b) and c) all available information and resources have been provided to EPA for the time frame requested. See response to question 10 (b).

Question 12:

a)

(i)-(iv) see response to question 10 (b)

(v) see response to question 3(a)

(vi) - (viii) Reviewed extensive history from records it has in its possession for any entity defined as "Respondent" and/or "You" in the Definitions, regarding the facilities in question at law office of Chace, Ruttenberg and Freedman LLP, Providence, RI where the corporate records are maintained.

b) Various documents are attached as necessary and where available when referenced in a response.

c) Teknor has no formal document retention policy regarding company records. However, Teknor has had a recommended practice in place, originating in 1987 with a recent update in 2005 (See Appendix F and G, respectively).

Appendix A
for 330 Oakhill Ave, Attleboro, MA
Questions 3(b) thru 5(c)

Appendix A for 330 Oakhill Ave, Attleboro, MA
Questions 3(b) thru 5(c)

Question 3:

b)

Process	Commenced	Ceased
Production of Plasticizers	1957	Ceased 2004
Polymerized PVC resin	~1956	1963
Color concentrate production	1959	Ongoing
Phthalic anhydrite production	~1964	~1968

c) Teknor purchased this facility in 1968 at which point it had one production unit operational for the production of plasticizers and color concentrates. The facility was not enlarged or changed in the time period 1968-1975.

d) &e)

Process	Raw Materials
Production of Plasticizers	C7 - C12 Alcohols, Phthalic Anhydride, Trimellitic Anhydride, Adipic Acid, Sebacic Acid
Production of PVC	Vinyl chloride monomer, catalyst
Color concentrates	Various resins (PVC, polyethylene and various pigments and dyes.
Phthalic anhydride	Naphthalene, Catalyst (Vanadium Oxide)

f)

Process	Equipment Cleaning Procedures	Quantity of Material Generated
Production of Plasticizers	Vessels are flushed using Water	Unknown
Color concentrates	Cleaned vessels with water and hand wiped	Unknown
Phthalic anhydride production	Manually removed without the aid of any solvent	Unknown

g)

Types of Materials Spilled	Materials/Methods used to Cleanup Spills	Disposal of Spilled Material
Alcohols	Materials were pumped to drums	Used for the production of VRP
Phthalic Anhydride	The Phthalic was picked up and placed in drums.	Used for the production of VRP

Question 4: Respondents Wastes and Waste Streams (including By-Products)

a) See attached Appendix A1 for waste stream info (*for any box left empty, the information was not available*)

b) Unknown

c)

Waste Name	Physical State	Chemical Composition	Color	Odor	Monthly Volume	Dates Generated
Trash	Solid	Packaging containing trace amounts of Raw Materials	Various	Unknown	Apx. 60 Yards	Continuous
Waste Oil	Liquid	Lube Oils	Dark Brown	Oil	Apx. 3 Drums	Continuous
Waste Mixed Lab Solvents	Liquid	Tetrahydrofuran, Methanol, Methylene Chloride, Chloroform, Toluene	Clear	Solvent	2 Gallons	Continuous
QC Lab Waste	Liquid	Plasticizer and Isopropyl Alcohol				Continuous

c) continued

Waste Name	Type of Container Stored in	Location of Collection	Location of Storage
Trash	Rolloff	In C-21	East of T-15 & West of C-21
Waste Oil	55 Gallon Drums		North of the T-15 Building
Waste Mixed Lab Solvents	5 Gallon Drums	Analytical Lab	North of the T-15 Building
QC Lab Waste	55 Gallon Drum	The C-21 Building	NA Reacted in VRP

Question 5:

See response to Question 4

Appendix A 1
for 330 Oakhill Ave, Attleboro, MA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

Information Request Waste Survey for 1966 through 1975
for the Shpack Landfill Superfund Site *

Name of Respondent: Tehner & Co

Respondent's Location: Hebronville, MT

Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Acids				
	Adhesives				
	Asbestos				
	Adsorbents (from spills, leaks, etc.)				
	Automotive Related Wastes:				
	Antifreeze				
	Batteries				
	Brake Fluids				
	Degreasers				
	Lubricants	<u>Vacuum truck</u>	<u>WASTE OIL, SANJON OIL</u>		<u>BURNED For heat</u>
	Oils	<u>1. roll off</u> <u>2. Vacuum truck</u>	<u>WASTE OIL + S</u> <u>WASTE OIL + water</u>		<u>unknown</u>
	Oil Filters				

* no evidence that the site was used by the respondent

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Teknor Apex Co Respondent's Location: Hebronville, MA Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Transmission fluids				
other:				
Batteries				
Bleaches				
Caustics/Alkalis				
Chemicals				
Cleaning compounds or fluids				
Coolants				
Degreasers				
Disinfectants				
Distillation Byproducts (Still Bottoms)				
Dyes				
Etching Solutions				
Filters				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Teknor Inc Co Respondent's Location: Nicholson, NE Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Flammable, Reactive, or Explosive Materials				
	Fungicides				
	Herbicides				
	Insecticides				
	Insulating/Fire Proofing Materials				
	Laboratory Wastes	<u>5 gal / 1 gal</u> <u>55 gal drums</u>	<u>VARIOUS SOLVENTS</u>		<u>UNKNOWN</u>
	Lubricants				
	Metals:				
	grindings				
	powders				
	shavings				
	sludges				
	solutions				
	other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmer Apex Co Respondent's Location: Hebronville, Mt Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Paint and Coating Wastes:				
	paint				
	pigments				
	stripper				
	stains				
	thinner				
	turpentine				
	varnish				
	other:				
	PCBs (polychlorinated biphenyls)				
	Pesticides				
	Photocopying Wastes:				
	toners				
	other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmer Apex Co Respondent's Location: Hebronville, MA Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Photography Wastes:				
	developers				
	fixers				
	other:				
	Plating Solutions				
	Pretreatment Sludges/Solutions (sewage)				
	Printing Wastes:				
	inks				
	dyes				
	other:				
	Rags, Used (Indicate prior use)				
	Rodenticides				
	Septic System Wastes	Vacuum truck	septic system waste sanitization Co		waste water treatment

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telnor Apex Co Respondent's Location: Hebronsville, MA Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Sludges				
Soldering Solutions				
Solutions of Polymers, resins, plastics				
Solvent Extracts				
Solvents				
Waste Oils				
Wood Preservatives				
Radioactive Materials:				
Uranium				
Radium				
Other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmar Apex Co Respondent's Location: St Brownsville, ALA Date: 5/23/06

[illegible]

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: _____ Respondent's Location: _____ Date: _____

Appendix B
for 505 Central Ave, Pawtucket, RI
Questions 3(b) thru 5(c)

**Shpack Landfill 104(E) Site Information Request Response for the Time Period of
1946-1975**

**Appendix B for 505 Central Ave, Pawtucket, RI
Questions 3(b) thru 5(c)**

Question 3:

b)(i-ii)

Process	Commenced	Ceased	Location
Rubber Compounding (Tread Rubber)	1954	1993	505 Central Ave.
Rubber Compounding & Manufacturing (Blocks)	1954	present operation	505 Central Ave.
Rubber Compounding (Solite - shoe soling)	1954	1984	505 Central Ave.
Plastics Compounding (PVC)	1954	present operation	505 Central Ave.
Hose Manufacturing	1954	1992	505 Central Ave.
Plasticizer Manufacturing	1952	1965	90 Mendon Rd.
Wire Coating Material Manufacturing	1965	1970	90 Mendon Rd.

c)

Process	Changes in operation
Rubber Compounding (Tread Rubber)	Production moved to Tennessee plant in 1993.
Rubber Compounding & Manufacturing (Blocks/ Mats)	Production increased in these areas with the deletion of other products.
Rubber Compounding (Solite - shoe soling)	Production ceased in 1984.
Plastics Compounding (PVC)	3 production lines through 1960, 4 lines through 1962, 5 lines through 1980, 6 lines through 1986 with the addition of a line which manufactured non-toxic, medical grade PVC.
Hose Manufacturing	Production moved to Tennessee plant in 1993.
Plasticizer Manufacturing	Plasticizer production moved to Massachusetts plant.
Wire Coating Material Manufacturing	Production ceased in 1970.

d) and e)

Process	Raw Materials
Rubber Compounding/ Manufacturing	Rubber blocks, zinc stearate, carbon black, sulfur, accelerators, fillers, oils
PVC Compounding	PVC resin, calcium carbonate, plasticizers, colorants, lead compounds, stabilizers
TPE Manufacturing	Rubber blocks, zinc stearate, carbon black, sulfur, accelerators, fillers, oils, plasticizers

materials	liquids	carbonate, rubber, unrecyclables			(small amounts)	period
Filter Press Cake from Plasticizer and Wire Coating Manufacturing	solids/liquids	plasticizers, various solids generated in manufacture of plasticizer and wire coating	yellow black		8,000 - 10,000 lbs	1954-1970

Waste Name	Type of Container Stored in	Location of Collection	Location of Storage
Burnt Rubber Batches	none	Rubber Department	dumpster in Receiving Department
Burnt PVC Batches	none	Plastics Department	dumpster in Receiving Department
Waste oil	drum	each department	Warehouse at Mendon Ave
Raw material containers	various – bags, metal drums, cardboard drums	each department	dumpster in Receiving Department
Miscellaneous Solvents	Drums	Rubber Department Mendon Avenue	Drums stored at Mendon Avenue
Filter Press Cake	metal drums	Mendon Avenue	Drums stored at Mendon Avenue

Question 5):

See response to Question 4

Appendix B 1
for 505 Central Ave, Pawtucket, RI

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

Information Request Waste Survey for 1966 through 1975
for the Shpack Landfill Superfund Site *

Name of Respondent: Telmer Hoyer Company Respondent's Location: 505 Central Ave
Pawtucket, RI Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Acids				
Adhesives	5 gal ^{empty} pail, 55 gal drum	Block glue		Dumpster
Asbestos	solid pipe insulation			Dumpster
Adsorbents (from spills, leaks, etc.)	solid	speci-dri		Dumpster
Automotive Related Wastes:				
Antifreeze				
Batteries				
Brake Fluids				
Degreasers				
Lubricants				
Oils				
Oil Filters				

* no evidence that the site was used by the respondent

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmer Hys Co Respondent's Location: Central Ave Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Transmission fluids				
other:				
Batteries				
Bleaches				
Caustics/Alkalis				
Chemicals	WASTE SOLVENTS CARBON BLACK - SOLID	VARIOUS		recycled STORED @ warehouse UNUSED MATERIAL INTO DUMPSTER
Cleaning compounds or fluids				
Coolants				
Degreasers				
Disinfectants				
Distillation Byproducts (Still Bottoms)				
Dyes				
Etching Solutions				
Filters				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telme: Apex Co Respondent's Location: Central Ave Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Flammable, Reactive, or Explosive Materials				
Fungicides				
Herbicides				
Insecticides				
Insulating/Fire Proofing Materials				
Laboratory Wastes	Liquid, solids			Disposed in sink
Lubricants	grease hydraulic fluid			stored at warehouse
Metals:				
grindings				
powders				
shavings				
sludges				
solutions				
other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmer Type Co Respondent's Location: Central Ave Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Paint and Coating Wastes:	<u>Liquid/solid</u>			<u>dumpster</u>
paint				
pigments				
stripper				
stains				
thinner				
turpentine				
varnish				
other:				
PCBs (polychlorinated biphenyls)				
Pesticides				
Photocopying Wastes:				
toners				
other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telmer Inc Respondent's Location: Central Ave Date: 5/23/86

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Photography Wastes:				
	developers				
	fixers				
	other:				
	Plating Solutions				
	Pretreatment Sludges/Solutions (sewage)				
	Printing Wastes:				
	inks				
	dyes				
	other:				
	Rags, Used (Indicate prior use)	CLEANING Kerosene			Dumpster
	Rodenticides				
	Septic System Wastes				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: TC Leno: Apex Co Respondent's Location: Central Ave Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Sludges				
Soldering Solutions				
Solutions of Polymers, resins, plastics				
Solvent Extracts				
Solvents				
Waste Oils	Liquid	gear oil, lube oil, misc maintenance		stored in drums at
Wood Preservatives		oil, plasticizers, Rubber		Mendon Warehouse.
		Process oil, #2 Fuel oil		
Radioactive Materials:				
Uranium				
Radium				
Other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Teleworker Co Respondent's Location: Control for Date: 5/23/06

[illegible]

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: _____ Respondent's Location: _____ Date: _____

Appendix C
For 20 Industrial Rd. Cumberland, RI
Questions 3(b) thru 5(c)

Shpack Landfill 104(E) Site Information Request for the Time Period of 1946-1975

**Appendix C for 20 Industrial Rd, Cumberland, RI
Questions 3(b) thru 5(c)**

Question 3:

b) (i)-(ii)

Process	Commenced	Ceased
Production of Color Concentrates as Custom Color Company	1963	January 11, 1985 (sold to Teknor Color Company)
Production of Color Concentrates-Teknor Color Company	January 11, 1985	Ceased Dec. 31, 2004 (facility closed)

c) By the mid eighties, a major account was lost, and due to attrition and an incentive plan, the number of employees did drop and production volume reduced until facility was closed at the end of 2004.

d) and e)

Process	Raw Materials
Production of Color Concentrates	Organic and Inorganic Pigments; Fillers-Atomites; Zinc and Calcium Sterates; Polyolefin and Polystyrene Resins; Polyurethane, ABS, and acrylics

f)

Cleaning (response to this question was all done by memory of the personnel contacted-no written records remain)

Most of the time cleaning of equipment was done using “dry” materials such as purging material, rags, vacuuming and high-pressure air. Purging of the equipment, floor sweepings and rags were all disposed of in the dumpster. Quantity is unknown.

Occasional but minor usage on solvents (unknown specific solvent) used on rags were used to help clean the equipment. The rags were then disposed of in the dumpster.

Water was also used occasionally for cleaning. The water was then sent to the sewer.

g)

(i)-(iv)

Types of Materials Spilled	Materials/Methods used to Cleanup Spills	Disposal of Spilled Material
Solid spills	Material would be vacuumed and/or swept	Discarded into the dumpster
Liquid spills	Very little liquid was used in the facility. If a spill occurred, speedi-dry and or rags were used for cleaning.	Discarded into the dumpster

Question 4:

- a) see attached waste survey as Appendix C1 (*for any box left empty, the information was not available*)
- b) unknown
- c)

Waste Name	Physical State	Chemical Composition	Color	Odor	Monthly Volume	Dates Generated
Solid Waste	Solid	Organic or inorganic colorants	Wide Variety	Unknown	Unknown	Continuous
Dust Collector Dust	Solid	Combination of materials used in facility	Brown/black	Unknown	Unknown	1966-1985

Waste Name	Type of Container Stored in	Location of Collection and Storage
Solid Waste from facility	Dumpster	Outside Building

Question 5:

See response to Question 4

Appendix C 1
For 20 Industrial Rd. Cumberland, RI

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

Information Request Waste Survey for 1966 through 1975
for the Shpack Landfill Superfund Site *

Name of Respondent: Teknor Apex Co

Respondent's Location: Cumberland, RI

Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Acids				
Adhesives				
Asbestos				
Adsorbents (from spills, leaks, etc.)	<u>Dumpster</u>	<u>Speedi-Dry</u>		<u>unknown</u>
Automotive Related Wastes:				
Antifreeze				
Batteries				
Brake Fluids				
Degreasers				
Lubricants				
Oils				
Oil Filters				

* No evidence waste was sent to the site by the respondent

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telnor Ap Co Respondent's Location: Cumberland, RI Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Transmission fluids				
other:				
Batteries				
Bleaches				
Caustics/Alkalis				
Chemicals				
Cleaning compounds or fluids				
Coolants				
Degreasers				
Disinfectants				
Distillation Byproducts (Still Bottoms)				
Dyes				
Etching Solutions				
Filters				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Technor Apex Co Respondent's Location: Cumberland, RI Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Flammable, Reactive, or Explosive Materials				
	Fungicides				
	Herbicides				
	Insecticides				
	Insulating/Fire Proofing Materials				
	Laboratory Wastes				
	Lubricants				
	Metals:				
	grindings				
	powders	<i>solid pigments into dumpster</i>	<i>unknown</i>		<i>unknown</i>
	shavings				
	sludges				
	solutions				
	other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Telenor Apex Co Respondent's Location: Cumberland, RI Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Paint and Coating Wastes:	<i>small quantities used to paint inside walls</i>	<i>unknown</i>		<i>unknown</i>
paint				
pigments				
stripper				
stains				
thinner				
turpentine				
varnish				
other:				
PCBs (polychlorinated biphenyls)				
Pesticides				
Photocopying Wastes:				
toners				
other:				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Teknor Apex Co Respondent's Location: Cumbersburg, PA Date: 5/23/06

Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
Photography Wastes:				
developers				
fixers				
other:				
Plating Solutions				
Pretreatment Sludges/Solutions (sewage)				
Printing Wastes:				
inks				
dyes				
other:				
Rags, Used (Indicate prior use)	From equipment cleaning - dumpsters	wipes / cloths		unknown
Rodenticides				
Septic System Wastes				

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Tehnos Inc Co Respondent's Location: Cumberland, RI Date: 5/23/06

	Substance	Physical State when Disposed/Type of Container (e.g. Liquid/5 gal pails, Sludge/55 gal drums, Solid/directly in dumpster.)	Trade Name/Chemical Composition (e.g. Nitric acid/HNO ₃ , Tetrahydrofuran/C ₄ H ₈ O.)	Volume (per month)	Disposal Method and Location (year) (e.g. dumpster('55-68), [Name] Landfill('69-81), [Name] Solvent Reclaimer('82-'91).
	Sludges				
	Soldering Solutions				
	Solutions of Polymers, resins, plastics				
	Solvent Extracts				
	Solvents				
	Waste Oils				
	Wood Preservatives				
	Radioactive Materials:				
	Uranium				
	Radium				
	Other:				
	Solids from recirculated coal water system cleanout	dumpster	unknown		unknown

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: Teknor Apex Co Respondent's Location: Cumberland, RI Date: 5/23/06

[illegible]

Information Request Waste Survey for the Shpack Landfill Superfund Site (1966 through 1975)

Name of Respondent: _____ Respondent's Location: _____ Date: _____

Appendix D

RESPONSE FOR 10(h):

No, Teknor Apex Company is not the successor to any liabilities, including those under CERCLA, of the Thompson Chemical Company. Continental Oil Company (now doing business as ConocoPhillipsCo., hereinafter referred to as “Continental”) was the sole successor to all of Thompson Chemical Company’s (“Thompson Chemical”) liabilities, including but not limited to those liabilities associated with the 1964 fire and with the alleged disposal of waste as a result of the fire, because it: (a) purchased, liquidated, and dissolved Thompson Chemical; and (b) assumed the Thompson Chemical liabilities when it purchased Thompson Chemical’s stock and executed an indenture agreement, after the occurrence of both the fire and the subject waste disposal, expressly assuming both existing and contingent liabilities.

A. Continental Purchased, Liquidated, And Dissolved Thompson Chemical And Therefore Inherited It And It’s Liabilities

Thompson Chemical was organized under the laws of Rhode Island on March 1, 1955. On September 18, 1964, Continental purchased Thompson Chemical and then liquidated and dissolved it. Liquidation means the end of a corporation’s existence¹. Pursuant to Continental’s liquidation and dissolution of Thompson Chemical, Continental emerged as the sole owner of Thompson Chemical and its assets, rights, properties, contracts, liabilities, and business, “as a going concern” (See *December 7, 1965 Minutes of the Special Meeting of the Board of Directors, Exhibit A*). Thus, Continental naturally inherited the Thompson Chemical liabilities as a result of purchasing, liquidating, and dissolving Thompson Chemical. Thereafter, Continental owned the burden of shifting the Thompson Chemical liabilities to a different entity, and, as the record will demonstrate, it failed to do so.

Moreover, Continental inherited the Thompson Chemical liabilities in another separate and distinct manner when it expressly and broadly agreed to assume the Thompson Chemical liabilities in the context of its purchase of Thompson Chemical.

B. Continental Expressly And Broadly Assumed All Thompson Chemical Liabilities

Several months after the occurrence of the fire at the Hebronville facility and the alleged waste disposal at the Shpack landfill, on September 18, 1964, Continental purchased all of the outstanding stock of Thompson Chemical (See *1964 Purchase Agreement, Exhibit B*). The September 1964 stock purchase occurred with full knowledge of the fire at the Hebronville facility earlier that year. Yet, Continental took no action in any of the documents related to the purchase of the stock of Thompson Chemical to shield itself from the existing and/or contingent liabilities that would have accrued due to the fire.

¹ *Maytag Corp. v. Navistar International Transportation Corp.*, 219 F.3d 587 (7th Cir. 2000).

Following its acquisition of Thompson Chemical, Continental liquidated and dissolved it. In the process of liquidating and dissolving Thompson Chemical, Continental affirmatively recognized its obligations to assume any and all Thompson Chemical liabilities. For instance, at the December 7, 1965 meeting of the officers and directors of Continental, it was recommended by the Chairman of Continental, the sole stockholder of Thompson Chemical, that it “be liquidated and that its assets be distributed to Continental Oil Company...in complete liquidation of the corporation and in complete cancellation and redemption of all of its stock” (See **Exhibit A**). The Chairman stated that Continental “would assume all obligations of the Corporation, and retaining the Corporation’s assets, would operate the business of the Corporation...” *Id.*, pgs. 1-2. Accordingly, Continental presented and approved a “Plan of Liquidation” for Thompson Chemical (See *Plan of Liquidation*, **Exhibit C**).

During the period from December 7 to December 31, 1965, all of the assets and liabilities of Thompson Chemical were transferred to Continental in complete liquidation of Thompson Chemical. In order to facilitate the “Plan of Liquidation,” the parties entered into an indenture agreement. The indenture agreement states that Continental acquired the business “as a going concern.” In addition, the indenture agreement states that Continental assumed “all the debts, liabilities, contracts and commitments, *absolute or contingent*...” (See *Indenture Agreement*, **Exhibit D**).

The dissolution of Rhode Island incorporated Thompson Chemical became final in the State of Rhode Island Superior Court on December 31, 1965, almost two years after the 1964 fire at the Hebronville facility (See *Final Order*, **Exhibit E**). With the dissolution of Thompson Chemical, Continental officially emerged as the sole owner of all of Thompson Chemical’s assets and the only successor to all of Thompson Chemical’s liabilities.

The evidence is clear that Continental knew of the 1964 fire at the Hebronville facility and the potential for liabilities that could follow. Yet, Continental executed documents evidencing its intent to assume both *existing* and *contingent* Thompson Chemical liabilities. Upon acquiring the Thompson Chemical liabilities, it was then Continental’s burden to transfer those liabilities to a different entity. Continental did not transfer those liabilities to Thompson Apex Company, Elmgrove Corporation or Teknor Apex Company.

B. Continental Did Not Transfer Any Thompson Chemical Liabilities Associated With The 1964 Fire To Teknor

Teknor was formed in September of 1968 after Elmgrove Corporation acquired Thompson Apex Company, who then filed paperwork to change its name from Thompson Apex Company (“Thompson Apex”) to Teknor Apex Company (“Teknor”) (See **Exhibit F**). In April of 1971, Teknor merged with Elmgrove Corporation, and Teknor emerged as the surviving entity (See **Exhibit G**). The only way in which Teknor could have succeeded to any Thompson Chemical liabilities related to the 1964 fire is if

Continental transferred those liabilities to Teknor. Even though Continental had opportunities to transfer those liabilities to Teknor, it did not.

Continental had two distinct mechanisms available to it to transfer liabilities to Teknor. First, on July 1, 1968, Continental transferred operating assets to Thompson Apex (Thompson Apex was later purchased by Elmgrove Corporation, which then changed its name to Teknor)(See *Bill of Sale, Exhibit H*). Thus, Continental could have transferred the Thompson Chemical liabilities related to the 1964 fire to Thompson Apex prior to Elmgrove's July 1 purchase of assets. It did not.

Second, Elmgrove Corporation purchased Thompson Apex stock from Continental (See *1968 Purchase Agreement, Exhibit I*). Continental could have separately transferred the Thompson Chemical liabilities related to the 1964 fire to Elmgrove Corporation through the July 24, 1968 stock purchase agreement. It did not.

1. Continental Did Not Transfer Any Thompson Chemical Liabilities To Thompson Apex Company.

On December 10, 1964, Thompson Apex was formed by Continental as a Delaware company. Continental formed Thompson Apex a year prior to the liquidation of Thompson Chemical, so, as of the date of dissolution and liquidation of Thompson Chemical, Thompson Apex was already in existence as a separate and distinct company. Although formed in 1964, it appears that Continental did not transfer operating assets to Thompson Apex until July 1, 1968, as evidenced by the Bill of Sale (See *Exhibit H*). The July 1, 1968 Bill of Sale transferring assets to Thompson Apex includes the Hebronville plant, yet it fails to evidence any express or implied conveyance of any of Continental's Thompson Chemical liabilities.

Since Thompson Apex, which was formed by Continental and was a Continental entity, did not assume Continental's Thompson Chemical liabilities, Elmgrove Corporation, through its purchase of the stock of Thompson Apex, could not have assumed those liabilities.

2. Continental Did Not Transfer Any Thompson Chemical Liabilities To Elmgrove Corporation.

The evidence is clear that Elmgrove Corporation ("Elmgrove") did not assume and/or acquire Continental's Thompson Chemical liabilities in connection with its 1968 purchase of Thompson Apex from Continental. On July 24, 1968, Continental and Elmgrove entered into an agreement for Elmgrove's purchase of all outstanding capital stock of Thompson Apex (See *Exhibit I*). The underlying facts demonstrate that the 1968 transaction was an arms-length transaction. Generally, whether or not a transaction is qualified as an arms-length transaction will depend on whether or not the purchase price was for fair market value. Elmgrove paid Continental \$14,000,000 for the Thompson Apex Stock (See *Exhibit I*).

When Continental purchased Thompson Chemical's stock, it was aware of the 1964 fire and that potential liability issues could ensue. Yet it executed documents evidencing its intent to broadly assume both *existing* and *contingent* Thompson Chemical liabilities. Continental took no affirmative action to transfer any such liability to Elmgrove in the course of the July 1968 agreement. In fact, the only liabilities explicitly transferred to Elmgrove were "trade payables and tax liabilities that had accrued on the books as of the date of the transfer..." (See **Exhibit I**). As to Continental's Thompson Chemical liabilities, the July 1968 agreement is silent.

Continental's silence on the issue of the Thompson Chemical liabilities related to the 1964 fire leaves little doubt that Continental had no intention of passing along any liabilities to Elmgrove associated with the Thompson Chemical liabilities related to the 1964 fire. Even though the fire that sparked Thompson Chemical's existing environmental liabilities occurred four years before the 1968 agreement between Continental and Elmgrove was drafted, and well after the Towns of Norton and Attleboro began their respective investigations regarding the fire, as well as the activities occurring at the landfill, Continental certifies in the context of the 1968 agreement that:

- "[T]he business, properties and assets of Thompson Apex *shall not have been adversely affected in any material way as a result of any fire, accident or other casualty...*" (See **Exhibit I**, Section 7.1.4);
- "...[T]hompson Apex has, or at the time of the Closing will have, good and marketable title to all of its assets and properties...free and clear of any claims, liens or encumbrances..." (See **Exhibit I**, Section 3.5);
- "...there is no litigation, proceeding, or governmental investigation pending, or any order, injunction or decree outstanding against or related to Thompson Apex, its assets or business..." (See **Exhibit I**, Section 3.9).

Finally, although Continental succeeded to Thompson Chemical's waste disposal liabilities partly because it continued to operate Thompson Chemical "as a going concern," the same is not true of Elmgrove. Continental set up Thompson Apex (Delaware) as a separate and distinct company from Thompson Chemical. Continental did not transfer its Thompson Chemical liabilities to Thompson Apex through the 1968 Bill of Sale. In 1968 Elmgrove bought Thompson Apex, not Thompson Chemical. In fact, the record demonstrates that there was a substantial difference in the business activities and physical assets that were acquired by Continental in 1964 versus that which was acquired by Elmgrove in 1968. As one example, PVC polymerization and compounding were a large part of the Thompson Chemical business conducted at the Assonet, Massachusetts and Aberdeen, Mississippi, facilities, and were conveyed to Continental in 1964. The PVC polymerization aspect of the business, however, was not conveyed to Elmgrove as part of the 1968 transaction.

For the reasons set forth above, Continental is the appropriate successor to the Thompson Chemical liabilities. Moreover, Continental, and then ConocoPhillips, received a substantial benefit from operating the Thompson Chemical business, as a going concern, post 1964. It did so at such a level of success that it was subsequently

ordered by the Federal Trade Commission to divest itself of the Hebronville facility, among others, due to fear that it was becoming a monopoly.

As the preceding paragraphs demonstrate, Teknor has been improperly identified as a PRP for the Site. Any and all of the Thompson Chemical liabilities rest with ConocoPhillipsCo., as the successor to Continental. Continental purchased all of Thompson Chemical's outstanding stock in September 1964 (well after the fire and ensuing waste disposal occurred), liquidated and dissolved the company, executed an indenture agreement stipulating to the assumption of all existing and contingent liabilities of Thompson Chemical, and then operated the Thompson Chemical business as a going concern. In order for Teknor to be in any way responsible for Thompson Chemical liabilities, Continental would have had to transfer those liabilities to Teknor. Continental had mechanisms available to it to transfer the Thompson Chemical liabilities to Teknor, however, it did not, and those liabilities remain with Continental, now doing business as ConocoPhillipsCo.

SALES AGREEMENT

THIS AGREEMENT, dated as of September 18, 1964, between NORMAN M. FAIN, M. EDGAR FAIN and IRVING J. FAIN, residents of Providence, Rhode Island, and the other individuals and fiduciaries who are stockholders of Thompson Chemical Company, a Rhode Island corporation (herein sometimes called "Thompson"), Apex Tire & Rubber Co., a Rhode Island corporation (herein sometimes called "Apex") and Monroe Manufacturing Company, a Mississippi corporation (herein sometimes called "Monroe"), said Norman M. Fain, M. Edgar Fain, Irving J. Fain and such other individuals and fiduciaries being herein collectively referred to as "Stockholders" or individually referred to as "Stockholder", and CONTINENTAL OIL COMPANY, a Delaware corporation (herein called "Continental"),

W I T N E S S E T H :

WHEREAS, Stockholders own all of the issued and outstanding capital stock of Thompson, Apex and Monroe which together with Turner Warehouse Company, a Massachusetts Business Trust (herein sometimes called "Turner"), all of whose issued and outstanding units of beneficial interest are owned by Apex, are herein collectively called the "Thompson Companies"; and

Exhibit A

WHEREAS, certain of the Stockholders own all of the issued and outstanding stock of Hay Realty Corporation, a Rhode Island corporation (herein called "Hay Realty") which has adopted a plan of complete liquidation and desires to sell certain real property owned by it; and

WHEREAS, Continental desires to purchase all of the issued and outstanding shares of capital stock of Thompson, Apex and Monroe, to acquire that real estate which is owned by Hay Realty and is utilized by the Thompson Companies, and to acquire indirectly through Apex all of the issued and outstanding units of beneficial interest of Turner.

NOW, THEREFORE, in consideration of the premises and the respective agreements hereinafter set forth, Stockholders and Continental hereby agree as follows:

1. Sale and Transfer of Capital Stock and Related Transactions

- (a) Stockholders will sell, convey, transfer and deliver to Continental at the Closing (as hereinafter defined) all of the issued and outstanding shares of capital stock of Thompson, Apex and Monroe, free and clear of all liens, claims or encumbrances, and Stockholders will deliver to Continental at the Closing certificates representing all said shares, duly endorsed in blank or accompanied by appropriate

stock powers duly executed in blank, and having all necessary transfer tax stamps affixed and cancelled.

- (b) At the Closing, Stockholders will cause Hay Realty to sell, convey, transfer and deliver to Continental by quitclaim deed (with quitclaim covenants) with all applicable documentary stamps affixed, the real estate described in Exhibit A, together with all improvements, fixtures and appurtenances thereto, and an appropriate bill of sale transferring to Continental all items of personal property owned by Hay Realty and utilized by or for the benefit of any of the Thompson Companies.

2. Consideration for Stock Sale and Transfer

The consideration for such sale, conveyance, transfer and delivery shall be:

(a) \$30,000,000 (subject to increase or reduction as provided in this Agreement), \$8,699,000 of which is to be paid at the Closing referred to in Section 4 below and the balance of which is to be paid in instalments in the amounts and on the dates specified below (herein called "Installments"):

No. 1	\$3,043,000	First Anniversary of Closing Date
No. 2	3,043,000	Second Anniversary of Closing Date
No. 3	3,043,000	Third Anniversary of Closing Date

No. 4 \$3,043,000 Fourth Anniversary of Closing Date
No. 5 3,043,000 Fifth Anniversary of Closing Date
No. 6 3,043,000 Sixth Anniversary of Closing Date
No. 7 3,043,000 Seventh Anniversary of Closing Date

The down payment of \$8,699,000 and the Instalments are to be paid by checks drawn on federal funds to the order of Norman M. Fain, M. Edgar Fain and Irving J. Fain, as agents for the Stockholders (herein, in said representative capacity, being called the "Stockholders' Committee"). Checks for all Instalments will be delivered at the office of Continental in New York City or at such other place as shall be mutually agreed upon by Continental and the Stockholders' Committee.

Subject to the provisions set forth below with regard to adjustments of Instalments, interest on all Instalments shall accrue at the rate of 4-1/2% per annum from the Closing Date and shall be payable semi-annually commencing six months after the Closing Date; provided, however, that interest for the first six months following the Closing Date shall be paid in two equal instalments, the first to be paid three months after the Closing Date and the second to be paid six months after the Closing Date.

In the event that the amounts of Instalments numbered 5 or 6 are adjusted as provided in Section 6(j) hereof, interest on such instalments shall thereafter be

computed on the adjusted amounts of such Instalments.

Whether or not the amounts of such instalments are adjusted as aforesaid, to the extent that the payments (and interest-free advances against future payments) received between May 31, 1964 and January 1, 1965 by the Thompson Companies and by Continental with respect to the Hebronville fire insurance claims referred to in Section 6(j) hereof are less than those specified in said Section 6(j), then the unpaid portion of such claims shall bear interest at the rate of 4-1/2% per annum from July 1, 1965 until the date of actual payment, and Continental shall have the right to credit the amount of such interest against its own interest obligations next falling due on Instalments 5 or 6.

If the amount of any of the Instalments shall be adjusted pursuant to any provision of this Agreement other than Section 6(j), interest on such Instalment or Instalments shall thereafter be computed on the adjusted amount thereof, the effective date of such interest adjustments to be determined as follows:

(1) If the adjustment to the Instalment is occasioned because of an out-of-pocket payment by Continental with respect to which there is a representation, warranty, covenant or agreement by Stockholders in this Agreement, the interest adjustment shall be made effective from the date of such payment by Continental; and

(ii) On all other adjustments of Instalments, the interest adjustment shall be made effective from the date when the deficiency or other basis for the adjustment is discovered by Continental.

The foregoing interest payments shall be made in the manner provided above with respect to payments of Instalments. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

(b) The assumption by Continental of all debts and obligations, matured or unmatured, contingent or otherwise, incurred by Hay Realty (or by its former wholly owned subsidiary Palmer Corporation, a Rhode Island corporation) in connection with the construction and completion of the recently completed Apex factory building and the payment by Continental, by check delivered to Hay Realty at the Closing, of an amount equal to the excess, if any, of all funds expended for the construction or completion of such new building by Hay Realty (or by Palmer Corporation) over the amount of the outstanding loans payable by Hay Realty (or by Palmer Corporation) which were incurred for the purpose of such construction and completion. In no event shall the total of such assumption and payment exceed \$610,000. The amount of all such costs and such loans payable shall be certified as correct by Price Waterhouse & Co., independent public accountants.

(c) A contingent payment to be paid on March 1, 1969, by check drawn on federal funds to the order of the Stockholders' Committee, such contingent payment and interest thereon to be computed in accordance with the provisions of Exhibit B hereto.

3. Allocation of Purchase Price

The Stockholders' Committee shall allocate the consideration received by it from Continental pursuant to subsections (a) and (c) of Section 2 hereof to the capital stock of the Thompson Companies and the properties to be conveyed by Hay Realty on the following basis:

Thompson	55.25%
Monroe	20%
Apex	17.33%
Properties of Hay Realty	<u>7.42%</u>
Total	100%

4. Closing

The closing of the transactions provided for herein (herein called the "Closing") shall take place at the Board Room of the Rhode Island Hospital Trust Company in Providence, Rhode Island, at 10 A.M., on September 18, 1964, provided that either Continental or the Stockholders' Committee, by written notice or notices to the other from time to time, shall be entitled to postpone the Closing to a date not later than five days after such date. If due to causes

beyond the control of either Continental or the Stockholders' Committee, the Closing is not consummated on such first mentioned date or within five days thereafter, this Agreement, unless mutually extended in writing authorized by the Board of Directors or an authorized committee of Continental and the Stockholders' Committee, shall terminate without liability of any kind on the part of either Continental, Stockholders or the Stockholders' Committee. The date of the Closing is referred to in this Agreement as the Closing Date.

5. Documents to be Delivered by Stockholders at Closing

The checks provided for in Section 2 hereof and an appropriate instrument of assumption pursuant to Section 2(b) hereof will be delivered to the Stockholders' Committee against receipt by Continental of the stock certificates and deeds referred to in Section 1 hereof and the following:

(a) A certificate registered in the name of Apex representing 1,000 units of beneficial interest in Turner.

(b) Resignations effective as of the Closing Date of Daniel Jacobs as a Director (or Trustee) of Thompson, Apex and Turner and as Secretary of Turner; of William L. Mayer as a Director (or Trustee) of Apex, Thompson, Monroe and Turner; and of M. Edgar Fain and Irving J. Fain as officers of Apex, Thompson and Monroe.

(c) All stock ledger and stock transfer books, and minute books containing minutes of all meetings of the

Stockholders and Boards of Directors (or Trustees in the case of Turner), of the Thompson Companies. All books and records of the Thompson Companies shall remain the property of the respective companies, except that for a period of five years following the Closing Date, the Stockholders' Committee or its representatives shall during reasonable business hours be permitted access to, and the right to copy those portions of the books and records of the Thompson Companies existing on the date hereof, and to the extent reasonably necessary to verify the Contingent Payment referred to in Section 2(c) hereof, those portions of the books and records of the Thompson Companies relating to transactions subsequent to the date hereof.

(d) Employment agreement executed between Continental and Norman M. Fain.

(e) Opinion of Messrs. Simpson Thacher & Bartlett, special counsel to the Stockholders, dated the Closing Date, to the effect that (i) Thompson, Apex, Monroe and Hay Realty are corporations duly organized and validly existing in good standing under the laws of their respective jurisdictions of organization referred to in Section 6(a) below, that Thompson is duly qualified to do business and is in good standing in the Commonwealth of Massachusetts and the State of Mississippi and that Apex is duly qualified to do business and is in good standing in the States of

Mississippi and Texas, (ii) Turner is a Massachusetts Business Trust duly organized and validly existing and in good standing in the Commonwealth of Massachusetts, (iii) the Thompson Companies have authorized capitalizations as set forth in Section 6(a) below, (iv) each of the Stockholders has the power to execute and deliver this Agreement and to carry out his obligations hereunder, and this Agreement is a legal, valid and binding obligation of each of the Stockholders in accordance with its terms, and (v) upon the delivery by the Stockholders to Continental at the Closing of the shares of stock of Thompson, Monroe and Apex, as contemplated by this Agreement, Continental will acquire the rights to all outstanding stock of such Companies, free and clear of any liens, claims or encumbrances. In rendering the foregoing, Messrs. Simpson Thacher & Bartlett may rely on the opinion of local counsel as to matters relating to the laws of states other than New York.

(f) Opinion of Messrs. Levy, Carroll, Jacobs and Kelly, counsel to the Thompson Companies and Hay Realty, dated the Closing Date, to the effect that except as may be specified by such counsel, they do not know of any activity or activities of any of the Thompson Companies which may reasonably be expected to result in suit or threat of suit for patent, trademark or copyright infringement or for unfair trade practice, or of any litigation, proceeding or govern-

mental investigation pending or in prospect or threatened against or relating to any of the Thompson Companies or Hay Realty or their respective properties or businesses, or the transactions contemplated by this Agreement, other than litigation of the type and in the amounts referred to in Section 6(1) hereof or in the memorandum referred to therein.

(g) Certificates of good standing with respect to Apex, Thompson, Monroe and Hay Realty from their respective states of incorporation and from the jurisdictions in which they are respectively qualified to do business.

(h) Certified copies of resolutions adopted by the shareholders and the Board of Directors of Hay Realty authorizing the sale of certain of the real estate of said company to Continental as provided in Section 1(b) hereof.

(i) Legal opinions of competent counsel or title reports of recognized title companies (or other evidence in form and substance satisfactory to Continental's counsel) with regard to the respective real properties owned by the Thompson Companies and Hay Realty and a legal opinion of competent counsel to the effect that the instruments of conveyance and transfer executed by Hay Realty with regard to the real properties listed in Exhibit A hereto are valid in accordance with their terms and are effective to vest in Continental all of Hay Realty's right, title and interest in and to the properties so conveyed.

6. Representations and Warranties by Stockholders

Stockholders jointly and severally represent and warrant as follows:

(a) Thompson Companies' Organization, Capitalization, Etc.

(1) Thompson is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in the Commonwealth of Massachusetts and State of Mississippi, which constitute the only jurisdictions in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Thompson's authorized capital stock consists of (i) 1,000 shares of Common Stock without par value, of which 600 shares are validly issued and outstanding, fully paid and nonassessable, and (ii) 50 shares of Preferred Stock having a par value of \$1,000 per share, of which none is issued and outstanding.

(2) Apex is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in the States

of Mississippi and Texas, which constitute the only jurisdictions in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Apex's authorized capital stock consists of (i) 1,000 shares of Common Stock without par value, of which 862 shares are validly issued and outstanding, fully paid and nonassessable, (ii) 2,200 shares of non-voting, noncumulative Class A Preferred Stock having a par value of \$100 per share, of which 670 shares are validly issued and outstanding, fully paid and non-assessable, and (iii) 2,400 shares of nonvoting, noncumulative Class B Preferred Stock having a par value of \$100 per share, of which 956 shares are validly issued and outstanding, fully paid and nonassessable.

(3) Turner is a Massachusetts Business Trust duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and has the power to carry on its business as it is now being conducted, and is duly qualified and in good standing in every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Turner is authorized to issue certificates representing 5,000 units of beneficial

interest, without par value, and has validly issued and outstanding a certificate or certificates representing 1,000 such units of beneficial interest which are fully paid and nonassessable and are legally and beneficially owned by Apex, free and clear of any claim, lien, charge or encumbrance and no other units of beneficial interest are issued or outstanding.

(4) Monroe is a corporation duly organized, validly existing and in good standing under the laws of the State of Mississippi and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Monroe's authorized capital stock consists of 2,000 shares of Common Stock having a par value of \$10 per share, of which all 2,000 shares are validly issued and outstanding, fully paid and non-assessable.

(5) Hay Realty is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has the corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in

every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary; all requisite corporate or other action has been taken by Hay Realty to authorize the sale of its real estate described in Exhibit A as provided herein.

(6) The number of shares of Thompson capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holdings of Thompson stock, and no shares of Thompson stock other than those listed below are issued or outstanding. Each Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Thompson stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Norman M. Fain, Guardian of the person and estate of Alfred A. Fain	4
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	125

<u>Stockholder's Name</u>	<u>Number of Shares</u>
William L. Mayer	4
Faye Barbara Mayer	4
Lawrence F. Gates	4
Helene P. Gates	4
Faye Barbara Mayer, Trustee for David L. Mayer, under agree- ment dated January 9, 1962	2
Faye Barbara Mayer, Trustee for Ellen E. Mayer, under agree- ment dated January 9, 1962	2
Helene Gates, Trustee for Lisa S. Gates, under agreement dated May 5, 1962	4
M. Edgar Fain	101
Norman M. Fain and Lloyd D. Tarlin, Trustees of The M. Edgar Fain Irrevocable Trusts, under agreement dated Decem- ber 26, 1962	30
Norman M. Fain and Lloyd D. Tarlin, Trustees for Elliot B. Fain, under agreement dated December 26, 1962	3
Norman M. Fain and Lloyd D. Tarlin, Trustees for Richard D. Fain, under agreement dated December 26, 1962	3
Sally A. Fain Epstein and Lloyd D. Tarlin, Trustees for Sally A. Fain Epstein, under agree- ment dated December 14, 1962	6
Lawrence A. Fain and Lloyd D. Tarlin, Trustees for Lawrence A. Fain, under agreement dated December 26, 1962	6

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Irving Jay Fain	107
Evelyn Macie Fain, Norman M. Fain and Melvin Irving Bernstein, Trustees of The Irving Jay Fain Irrevocable Trusts, under agreement dated June 11, 1962	30
Evelyn Macie Fain, Trustee for Elizabeth Fain, under agreement dated June 11, 1962	6
Evelyn Macie Fain, Trustee for Lyle Stoneman Fain, under agreement dated June 11, 1962	6
Norman M. Fain	101
Rosalie B. Fain, Leo Bakalar and Victor J. Baxt, Trustees of The Norman M. Fain Irrevocable Trusts, under agreement dated June 11, 1962	30
Rosalie B. Fain, Trustee for Jonathan D. Fain, under agreement dated July 6, 1960	6
Rosalie B. Fain, Trustee for Martha A. Fain, under agreement dated July 6, 1960	6
Rosalie B. Fain, Trustee for Wendy B. Fain, under agreement dated July 6, 1960	<u>6</u>
Total	<u>600</u>

(7) The number of shares of Apex capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holdings of Apex stock, and no shares of Apex stock other than those listed below are issued or outstanding. Each

Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Apex stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
<u>Class A Preferred:</u>	
M. Edgar Fain	160
M. Edgar Fain, Guardian of the person and estate of Richard Fain	30
E. Macie Fain	150
Irving J. Fain	30
E. Macie Fain, Guardian of the person and estate of Elizabeth Fain	30
E. Macie Fain, Guardian of the person and estate of Lyle S. Fain	30
Norman M. Fain	150
Rosalie B. Fain, Guardian of the person and estate of Jonathan D. Fain	30

Stockholder's NameNumber of Shares[Class A Preferred - continued]

Rosalie B. Fain, Guardian of the person and estate of Wendy B. Fain	30
Rosalie B. Fain, Guardian of the person and estate of Martha A. Fain	<u>30</u>
Total	<u>670</u>

Class B Preferred:

Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	404
Irving J. Fain	184
M. Edgar Fain	184
Norman M. Fain	<u>184</u>
Total	<u>956</u>

Common Stock:

Norman M. Fain, Guardian of the person and estate of Alfred A. Fain	34
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	294
Helene P. Gates	2
Faye Mayer	2

Stockholder's NameNumber of Shares

[Common Stock - continued]

Faye Barbara Mayer, Trustee for David L. Mayer, under agree- ment dated January 9, 1962	1
Faye Barbara Mayer, Trustee for Ellen E. Mayer, under agree- ment dated January 9, 1962	1
Helene Gates, Trustee for Lisa S. Gates, under agreement dated May 5, 1962	2
Irving J. Fain	169
E. Macie Fain	17
E. Macie Fain, Guardian of the person and estate of Lyle S. Fain	17
E. Macie Fain, Guardian of the person and estate of Elizabeth Fain	17
M. Edgar Fain	86
Norman M. Fain	169
Rosalie Fain	17
Rosalie B. Fain, Guardian of the person and estate of Wendy B. Fain	17
Rosalie B. Fain, Guardian of the person and estate of Jonathan D. Fain	<u>17</u>
Total	<u>862</u>

(8) The number of shares of Monroe capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holding of Monroe stock, and no shares of Monroe stock other than those listed below are issued or outstanding. Each Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Monroe stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	334
William L. Mayer	100
M. Edgar Fain	434
Irving Jay Fain	434
Norman M. Fain	434
Victor J. Baxt	<u>264</u>
Total	<u>2,000</u>

Except for this Agreement and the Restricted Stock Option Plan of Thompson, dated May 28, 1962, under which no options are outstanding, there are now and on the Closing Date will be no existing options, calls, or commitments of any character relating to the authorized or issued Common or Preferred Stock (units of beneficial interest in the case of Turner) of any of the Thompson Companies. None of such Companies is now obligated, or will be obligated at the Closing Date, to issue any capital stock, warrants, options, debentures, units of beneficial interest or other security of any type.

(9) The Common Stock, Preferred Stock and units of beneficial interest referred to in this Section 6 which have heretofore been issued have not been issued in violation of the Blue Sky Laws of any state or the Securities Act of 1933, as amended, or the Rules and Regulations pursuant thereto.

(10) With the exception of Apex's holdings of units of beneficial interest of Turner, none of the Thompson Companies has any subsidiary or owns any stock in any other corporation.

(b) Financial Statements and Other Data

Stockholders have delivered to Continental copies of the following financial statements, all of which are true

and complete in all material respects, have been prepared in accordance with generally accepted accounting principles applied on a basis consistent with that of the respective completed fiscal periods of the individual Thompson Companies (except as stated in the explanatory notes attached to such statements, and in the case of interim statements, except for year-end adjustments) throughout the period covered by such statements, and present fairly the financial position of the Thompson Companies included therein as at the dates, or the results of their operations for the periods covered by, such financial statements:

(1) The balance sheet of Thompson as at May 31, 1962, May 31, 1963 and May 31, 1964, and the related statements of income and retained earnings of Thompson for the twelve months ended on each of such dates (each certified by Price Waterhouse & Co., independent public accountants);

(2) The balance sheet of Apex (consolidated with its subsidiary Turner) as at December 31, 1961, December 31, 1962 and December 31, 1963, and the related statements of income and retained earnings of Apex for the twelve months ended on each of said dates.

(3) The balance sheet of Monroe as at September 30, 1962 and September 30, 1963 and the related statements of income and deficit of Monroe for the periods ended on each of such dates (each certified by Price

Waterhouse & Co.).

(4) Revised Combined Statement of Condition of Apex, Turner, Thompson and Monroe at May 31, 1964 (a copy of which is marked Exhibit C and annexed hereto, such Statement being hereinafter referred to as the "May 31, 1964 Revised Combined Statement of Condition"), prepared from and reconcilable with the books of account of the individual Thompson Companies at May 31, 1964.

(c) Absence of Certain Charges or Events

Since May 31, 1964, except as otherwise permitted by this Agreement or consented to by Continental in writing:

(1) There has not been any material and adverse change in the financial condition, assets, liabilities or business of Thompson, Apex, Monroe and Turner, considered as a whole;

(2) There has not been any declaration, setting aside or payment of any dividend or other distribution in respect of the Common Stock of Thompson, Apex or Monroe or the Preferred Stock of Apex or units of beneficial interest of Turner;

(3) There has not (except in the case of one employee) been any increase in the regular rate of compensation payable by any of the Thompson Companies to any of the officers or employees of the Thompson

Companies whose current annual salary rate aggregates \$15,000 or more from one or more of the Thompson Companies, or any increase over the amount thereof paid for the calendar year ended December 31, 1963 in any bonus, incentive compensation, service award or like benefit (hereinafter encompassed in the term bonus) authorized, granted or accrued to any such officers or employees;

(4) There has not been any hospitalization, insurance or similar benefit arrangement made or agreed to by any of the Thompson Companies;

(5) There has not been any significant labor trouble, or any other event or condition of any character (whether or not covered by insurance) which has materially and adversely affected or will so affect the properties or results of operations of any of the Thompson Companies;

(6) The Thompson Companies' business has been conducted only in ordinary course;

(7) No change has been made in the Certificate of Incorporation or Charter or By-Laws of Thompson, Apex, or Monroe or in the Declaration of Trust of Turner, nor has any of the Thompson Companies taken any action with respect to a stock split, combination of shares, reduction or increase of capital, reorgan-

ization or other modification of its capital structure, nor has Thompson, Apex, Monroe or Turner purchased any of the shares of Common Stock, Preferred Stock or units of beneficial interest previously issued by it or any other of the Thompson Companies;

(8) No changes have been made in the respective authorized and unissued Common Stocks of Thompson, Apex or Monroe, or in the authorized and unissued Preferred Stocks of Thompson or Apex, or in, or in the ownership by Apex of, the issued and outstanding units of beneficial interest in Turner, nor has any option or commitment been granted or made relating to the respective authorized Common Stocks of Thompson, Apex or Monroe, the respective authorized Preferred Stocks of Thompson or Apex, or the units of beneficial interest in Turner;

(9) The Thompson Companies have not mortgaged or pledged or agreed to mortgage or pledge any of their respective assets;

(10) No borrowing has been made by any of the Thompson Companies except short-term borrowing in the ordinary course of business, borrowing as a result of the fire at Kebronville, Massachusetts, and borrowing for construction purposes at Aberdeen, Mississippi, Pawtucket, Rhode Island and Assonet, Massachusetts;

nor has any of the Thompson Companies incurred any long-term liabilities;

(11) No change has been made in the banking and safe deposit arrangements reflected in the list referred to in Section 6(h)(9).

Continental hereby consents to the following transactions which have occurred since May 31, 1964:

(i) Palmer has conveyed without consideration to Oakland Corporation, a Rhode Island corporation, the real property described in Exhibit D attached hereto, which real property is a small tract located between the Apex office and the store owned by Apex Incorporated in Pawtucket, Rhode Island;

(ii) Apex and Thompson have conveyed to Apex Incorporated the real property described in Exhibit E attached hereto, which real property consists of certain parking lots now being used by the store owned and operated by Apex Incorporated in Pawtucket, Rhode Island, at the then book value of the real property and improvements, if any, as of August 31, 1964; and

(iii) Certain of the Stockholders have purchased from Apex at a price equal to the cash surrender value thereof, policies issued by The Equitable Life Assurance Society of the United States on the life of Alfred A. Fain.

(d) Tax Matters

The Federal income and excess profits tax returns of Apex have been audited by the Federal Internal Revenue Service (or are closed by reason of the statute of limitations) for all years to and including the calendar year ended December 31, 1962; the Federal income tax returns of Thompson have been so audited or so closed for all fiscal years to and including the fiscal year ended May 31, 1962; and the Federal income tax return of Thompson for the fiscal year ended May 31, 1963 is currently being audited. The results of all completed audits are reflected in the Thompson Companies' financial statements delivered to Continental, and all deficiencies proposed as a result of such audits have been paid and settled or are being contested in good faith. There are no agreements by any of the Thompson Companies for the extension of the time for the assessment of any tax. All assessed Federal, state, county and local taxes due and payable by any of the Thompson Companies on or before the date hereof have been paid.

(e) Accounts and Notes Receivable

The total amount of the accounts and notes receivable of the Thompson Companies stated on the May 31, 1964 Revised Combined Statement of Condition have been collected or are collectible and will be paid in full at the aggregate recorded amounts thereof less applicable reserves stated on

such Combined Statement. If any of such accounts and notes receivable shall not have been so collected prior to May 31, 1965 Continental shall have the right until November 30, 1965 to assign and transfer the same to the Stockholders' Committee and to reduce the purchase price hereunder by an amount equal to the aggregate face amount of the accounts and notes receivable so assigned, less the amount of the reserve therefor at May 31, 1964, as reflected in the aforesaid Combined Statement, by reducing the then unpaid Installments in inverse order of their respective due dates.

(f) Inventories

The inventories of the Thompson Companies stated on the May 31, 1964 Revised Combined Statement of Condition, or thereafter acquired by them, consist of items of a quality and quantity usable or salable in the normal course of the respective businesses of the Thompson Companies; the value of all items of obsolete materials and of materials of below standard quality as of May 31, 1964 was written down to realizable market value or adequate reserve provided therefor and such reductions or reserves, if any, are reflected on the aforesaid Combined Statement; and the value at which such inventories were carried at May 31, 1964 reflects the normal inventory valuation policy of the Thompson Companies of stating inventories at cost or market, whichever is lower.

(g) Title to Properties; Absence of Liens and Encumbrances, Etc.

Each of the Thompson Companies, and (as to properties being conveyed hereunder) Hay Realty, has good and marketable title to all of its properties and assets, real and personal (including those reflected on the May 31, 1964 Revised Combined Statement of Condition, except as since sold or otherwise disposed of in the ordinary course of business or as consented to by Continental in writing) free and clear of all liens and encumbrances, except as noted in Exhibit A and except for the lien of current taxes not yet due and payable, and except such imperfections of title, easements and encumbrances, if any, as are not substantial in character, amount and extent and do not materially detract from the value or interfere with the present use of the properties subject thereto or affected thereby or otherwise materially impair business operations. If Continental shall, within the period of one year following the Closing Date, discover any liens, encumbrances, easements or other defects or imperfections of title affecting the real properties located in Rhode Island, including those to be conveyed by Hay Realty (other than any mortgage relating to property described in Exhibit A hereto, with respect to which mortgage information has been delivered to Continental prior to the date hereof, and other than minor imperfections, easements or encumbrances of the character referred to in the next preceding sentence), Stockholders will, at Continental's request and at Stockholders' expense, take all

such steps as may be necessary to correct all such liens, encumbrances, easements, or other defects or imperfections of title; if for any reason such liens, encumbrances, easements, or other defects or imperfections of title cannot be corrected, Stockholders will indemnify and hold harmless Continental and each of the Thompson Companies against any and all claims, actions, losses and damages arising out of such liens, encumbrances, easements, or other defects or imperfections of title. Without limitation of the foregoing, to the extent that the then unpaid Instalments are sufficient therefor, the aforesaid losses and damages shall be offset against the unpaid Instalments by reducing such Instalments in the inverse order of their respective due dates.

All leases pursuant to which the Thompson Companies lease real or personal property are in good standing, valid and effective in accordance with their respective terms, and there is not, under any of such leases, any existing default or any event which with notice or lapse of time or both would constitute a default in respect of which the Thompson Companies have not taken adequate steps to prevent a default from occurring. Neither Hay Realty, Palmer Corporation nor any of the Thompson Companies has received notice of violation of any applicable zoning regulation, ordinance or other law, order, regulation or requirement relating to its operations or its owned or leased properties which has not been

complied with. Such of the properties and assets of the Thompson Companies as are subject to physical depreciation have been and until the Closing will be maintained in good repair and sound operating condition.

(h) Descriptions of Properties, Contracts and Other Operating Data

The Thompson Companies have delivered to Continental true and complete lists or descriptions (as of the date hereof, unless otherwise noted below) of each of the following:

(1) All real property owned, leased or otherwise utilized by any of the Thompson Companies (specifying in each instance whether the particular property is owned, leased or otherwise utilized), with sketches identifying the principal facilities located at each site.

(2) A list of all major items of machinery and equipment owned, leased or otherwise utilized by any of the Thompson Companies (specifying in each instance whether the particular property is owned, leased or otherwise utilized), showing material additions to, and eliminations from the physical assets listed in The Lloyd-Thomas Co. 1963 appraisal.

(3) All patents, patent applications, trademarks, trademark registrations and applications therefor, trade names, copyrights, and copyright registrations and applications therefor, presently owned, in whole or in

part, by any of the Thompson Companies, all of which are now current and in good standing, and which will be current and in good standing as of the Closing Date, and all patent, trademark or copyright licenses to which any one or more of them is a party.

(4) All automobiles, trucks, rolling stock or other conveyances owned, leased or otherwise utilized by the Thompson Companies as of August 31, 1964 (July 31 in the case of Apex), specifying in each instance whether the particular property is owned, leased or otherwise utilized.

(5) All policies of insurance (including fidelity bonds covering officers and employees) in force as of August 28, 1964 with respect to any of the Thompson Companies and, without restricting the generality of the foregoing, those covering their respective properties, buildings, machinery, equipment, furniture, fixtures and operations, all of which policies will still be in effect at the Closing Date.

(6) All material agreements of any of the Thompson Companies which were not entered into in the ordinary course of business and which remained executory, in whole or in part, with respect to any of the Thompson Companies as of September 1, 1964, together with lists as of September 4, 1964 of all forward sales or purchase

commitments for delivery after October 4, 1964 and an estimate of expenditures not yet committed for but required as of September 1, 1964 to complete the construction of new facilities at Assonet, Massachusetts and Aberdeen, Mississippi. None of the Thompson Companies has any profit-sharing, retirement, pension or other similar "fringe benefit" plans or arrangements.

(7) The names and current annual salary rates of all the Thompson Companies' present officers and employees whose current annual regular salary rate with one or more of the Thompson Companies aggregates \$15,000 or more, together with a summary of or copies of the plans or policies establishing any commissions or bonuses paid or payable to such persons for the past or current fiscal years.

(8) The names and ages of all the Thompson Companies' pensioned employees, if any, whose pensions are unfunded and their current annual or monthly unfunded pension rates.

(9) The name of each bank in which any of the Thompson Companies has an account or safe-deposit box and the names of all persons authorized to draw thereon or to have access thereto.

(10) The names of officers and directors (including trustees in the case of Turner) of the Thompson Companies.

None of the Thompson Companies is in default with respect to any of the agreements or arrangements described in this paragraph (h). The Thompson Companies do not have outstanding any letters of credit or powers of attorney except routine powers of attorney relating to representation before governmental agencies or courts of record.

The copies of licenses and agreements heretofore delivered by the Thompson Companies to Continental (which licenses and agreements are referred to on the lists furnished pursuant to subparagraphs (3) and (6) of this subsection (h)) are true and complete copies of such documents in the respective forms in which they were executed and are now in effect.

(1) Litigation

Except for suits, if any, of a character incident to the normal conduct of the Thompson Companies' respective businesses and involving a potential recovery against the Thompson Companies of not more than \$30,000 in the aggregate, suits involving liabilities adequately covered by insurance, and suits described in the memorandum regarding litigation heretofore delivered to Continental by the Thompson Companies, there is no litigation, proceeding, or governmental investigation pending, or so far as known to the Stockholders or the executive officers of the Thompson Companies, in prospect, threatened against or relating to the

Thompson Companies, or their respective properties or businesses, or the transactions contemplated by this Agreement, or so far as known to the Stockholders or the executive officers of the Thompson Companies, any activity or activities of any of the Thompson Companies which may reasonably be expected to result in suit or threat of suit against or relating to the Thompson Companies or their respective businesses for patent, trademark or copyright infringement or for unfair trade practices.

(j) Certain Insurance Claims

One or more of the Thompson Companies suffered losses in the January 12, 1964 fire and explosion at Hebronville, Massachusetts, which losses were insured with Firemen's Mutual Insurance Company and Aetna Casualty Company. The consideration for the sale of the stock of the Thompson Companies recognizes the business interruptions which have led to present lack of productivity of one or more of the Thompson Companies because of the aforesaid casualty, and the purchase price has been measured, in part, by the property damage and business interruption losses resulting from that casualty, claims for which are being filed with the aforesaid insurance companies. Further, the purchase price payable hereunder recognizes that the losses to be sustained will continue beyond the Closing Date. Since January 12, 1964, \$2,000,000 has been received from the aforesaid insurance companies and allocated (on the May 31, 1964 Revised

Combined Statement of Condition) as follows: Property Damage (Thompson) - \$962,968.47; Inventory Losses (Apex and Thompson) - \$1,037,031.53. Stockholders have assured Continental that additional insurance proceeds will be received, on or before July 1, 1965, as follows: (i) Property Damage - \$3,037,031.53 (in addition to \$962,968.47 heretofore allocated to Thompson); and (ii) Use and Occupancy Profits and Expenses - \$1,262,809.71 (\$262,809.71 of which is reflected on the aforesaid Combined Statement as a Thompson receivable).

Continental will cause Thompson to designate the Stockholders' Committee as its agent to prosecute, compromise and settle all of the aforesaid insurance claims, and Continental agrees that the Thompson Companies will make available to the Stockholders' Committee all records and such of their personnel which may be necessary for the prosecution, compromise or settlement of such claims. The Stockholders' Committee shall bear all expenses incurred since May 31, 1964 and which may hereafter be incurred in attempting to collect said claims (other than the time and expenses of officers and other employees of the Thompson Companies).

To the extent that the payments received by the Thompson Companies or by Continental by the close of business on December 31, 1965 with respect to the aforesaid insurance claims shall be different from the amounts specified

above, the purchase price shall be increased or reduced, as the case may be, by the amount of such differential after giving effect to taxes, computed on the following basis:

(i) the full amount by which the additional insurance proceeds paid with respect to use and occupancy profits and/or expenses shall exceed or fall short of \$1,262,809.71 reduced by the product of (x) "The Assumed Rate of Taxation" (as defined in Section 14(a) hereof) multiplied by (y) the amount of such excess over (or deficiency under) \$1,262,809.71, plus or minus

(ii) the full amount by which the additional insurance proceeds paid with respect to property damage shall exceed or fall short of \$3,037,031.53.

Any net decrease (or increase) in the purchase price hereunder by reason of the application of the provisions of this Section 6(j) shall be made by decreasing (or increasing) Instalments numbered 5 and 6 (in the inverse order of their respective due dates) and assigning to the Stockholders' Committee all of such unpaid insurance claims. Notwithstanding any other provision hereof, to the extent that the Thompson Companies and Continental have not received additional insurance payments in the amounts specified above by January 1, 1966, or reduced the purchase

price in accordance with the preceding sentence, Continental shall have the right to assign to the Stockholders' Committee, at any time prior to June 30, 1966, all of such unpaid insurance claims (including interest thereon) and to reduce the purchase price in the manner hereinabove set forth by reducing Instalments numbered 5 and 6 (in the inverse order of their respective due dates).

(k) No Defaults

None of the Thompson Companies is in default under any outstanding contract, indenture, mortgage, lease, deed of trust, pledge or other agreement to which it is a party or any of its properties may be bound. The consummation of the transactions contemplated hereby will not result in the breach or termination of any provision of, or constitute a default under, any outstanding contract, indenture, mortgage, lease, deed of trust, pledge or other agreement to which Stockholders or any of the Thompson Companies are parties or by which they or any of the properties of the Thompson Companies may be bound.

7. Representations and Warranties of Continental

Continental represents and warrants to Stockholders as follows:

(a) Continental is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) The execution and delivery of this Agreement by Continental and the performance by it of all of its obligations hereunder have been duly authorized by all necessary corporate action.

(c) Performance of and compliance with the terms, provisions and conditions of this Agreement do not and will not conflict with or result in any violation of any charter, by-law, mortgage, indenture, contract, agreement, instrument, franchise, permit, judgment, decree, order, statute, rule or regulation applicable to Continental or to which it is a party or requires the consent of any public authority.

8. Opinion of Continental's Counsel

Continental shall deliver to Stockholders' Committee at the Closing an opinion dated the Closing Date of Continental's counsel, Keith W. Blinn, Esq., to the effect that the execution, delivery and performance of this Agreement by Continental have been duly authorized and approved by all necessary corporate or other action of Continental and this Agreement has been duly executed and delivered by Continental and constitutes a valid and binding obligation of Continental in accordance with its terms.

9. Brokers

Continental and Stockholders represent to each other that they know of no broker, finder or intermediary who has been involved in the transactions provided for herein

or any broker, finder or intermediary who might be entitled to a fee or commission upon the consummation of transactions provided for herein, except Lehman Brothers who will be compensated by Stockholders pursuant to separate agreement. Stockholders hereby agree to indemnify Continental and hold it harmless from and against any obligations or liabilities to any broker, finder or intermediary, arising from transactions provided for herein, and from and against any claim of such obligation or liability or any expense incurred in connection with defending against any such claim, including reasonable attorneys' fees, which shall have resulted from any contract, agreement or action of Stockholders or any of them. Continental hereby agrees to indemnify Stockholders and hold each of them harmless from and against any obligations or liabilities to any broker, finder or intermediary (other than Lehman Brothers) arising from the transactions provided for herein and from and against any claim of such obligations or liabilities or any expense incurred in connection with defending against any such claim, including reasonable attorneys' fees, which shall have resulted from any contract, agreement or action of Continental.

10. Stockholders' Committee

(a) Each of the Stockholders does hereby irrevocably constitute and appoint Norman M. Fain, M. Edgar Fain, and Irving J. Fain, herein referred to as the "Stockholders'

Committee," their true and lawful attorneys-in-fact, to exercise the following powers for them, and each of them, in their names, places and stead:

(1) to receive and receipt for the consideration to be paid by Continental to Stockholders pursuant to this Agreement;

(2) to disburse to Stockholders their pro rata shares of all monies received by the Stockholders' Committee for Stockholders after deducting therefrom any and all expenses which may be incurred in connection with Stockholders' interests hereunder, including, without limitation, expenses in connection with the transfers contemplated hereby, fees and expenses of legal, investment and financial advisers and auditing fees, if any;

(3) to employ or enlist the services of other persons in connection with any matters arising hereunder, and to remove them, and to appoint others in their places, and to pay and allow to the persons to be so employed such salaries, wages, fees, or other remuneration as said Stockholders' Committee shall think fit;

(4) to defend and protect Stockholders' interests hereunder and to institute legal actions and proceedings of any nature or description whatsoever, to receive and

accept service of process upon any of the Stockholders, consent to jurisdiction, and appear for all purposes in their behalf in any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby, and to take all other actions and steps as Stockholders' Committee may deem advisable, in the matter of protecting Stockholders' interests hereunder; to adjust all claims on behalf of or against Stockholders in connection herewith, and to compromise the same, if, in the judgment of Stockholders' Committee, the same should be done; to satisfy, give receipt, release and acquittance in settlement of said claims or in adjustment of Stockholders' interests hereunder including, without limitation, the authority to vary, alter, or modify any of the provisions, terms or conditions of this Agreement, giving and granting unto said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as any Stockholder could or might do if personally present, with full power of substitution and revocation, hereby ratifying all that Stockholders' said attorneys, or their substitutes, shall lawfully do or cause to be done by virtue hereof;

(b) Stockholders will not perform or take any action or steps, as principals or otherwise, in connection with any matters involved in this Agreement and its acceptance, or which may arise therefrom, except through and by the Stockholders' Committee, which is hereby granted sole and exclusive rights and privileges to act for and on behalf of Stockholders, in Stockholders' joint and several capacities, in respect of all matters pertaining to or which may arise from this Agreement and its acceptance.

(c) This power of attorney shall continue until such date as all of the powers and duties of the Stockholders' Committee shall have been fully discharged, and the powers and duties of the remaining or surviving members of the Stockholders' Committee shall not be diminished or abrogated by the mental or physical disability, resignation or death of any members of the Stockholders' Committee; provided, however, that any vacancy in the membership of the Stockholders' Committee occurring by a death, resignation, refusal or failure to act shall be filled by another Stockholder selected by the remaining member or members of said Stockholders' Committee.

(d) Any act approved by a majority of the Stockholders' Committee in office, whether at meetings or otherwise, shall be the act of the Stockholders' Committee.

11. Indemnities by Stockholders and Adjustments in Purchase Price

(a) If Continental, any subsidiary or affiliate of Continental, or any of the Thompson Companies shall suffer losses (including legal fees and expenses), not fully reimbursed by insurance, as a result of claims or actions asserted or instituted, or hereafter asserted or instituted, on behalf of any of the persons who were killed or injured in the fire at Hebronville, Massachusetts on January 12, 1964, Stockholders will indemnify and hold harmless Continental, such subsidiary or affiliate, or the Thompson Companies, as the case may be, with respect to the full amount of such losses.

(b) Stockholders will indemnify and hold harmless Continental, the Thompson Companies, and any subsidiary or affiliate of Continental, against the net amount (after giving effect to all tax benefits to be derived therefrom in the same or any subsequent fiscal period of the Thompson Companies, or of Continental, as the case may be, based upon The Assumed Rate of Taxation, as defined in Section 14(a) hereof) of

(1) any Federal, state or local taxes, including interest, penalties and additions to such taxes, which are imposed upon or measured by net income for any fiscal period ended before June 1, 1964, of any of

the Thompson Companies, other than those accrued or reserved for on the May 31, 1964 Revised Combined Statement of Condition and other than Federal income taxes of Thompson for the fiscal year ended May 31, 1964 resulting from the recognition of gain under Section 1033 of the Internal Revenue Code on the involuntary conversion of certain of its Hebronville, Massachusetts property; and

(2) any Federal, state or local taxes, including interest, penalties and additions to such taxes applicable to periods before June 1, 1964, imposed upon or measured by net income of Apex, Turner or Monroe, for any fiscal period beginning after September 30, 1963 and ending prior to January 1, 1965 other than those accrued or reserved for on the May 31, 1964 Revised Combined Statement of Condition except for any such tax which may arise in such current fiscal periods by reason of capitalization of items previously expensed or lengthening of useful lives.

Continental will cause the Thompson Companies to close their respective books on the Closing Date and to engage Price Waterhouse & Co. to prepare and cause to be filed Federal income tax returns for each of the Thompson Companies for all fiscal periods covered in whole or in part by the provisions of this Subsection 11(b). Continental will cause the Thompson Companies to appoint a duly qualified representative of the Stockholders' Committee as attorney-in-fact with full

power at Stockholders' expense to prosecute, settle and compromise the amount of any taxes which fall within the provisions of this Subsection 11(b).

(c) If, at any time within two years after the date hereof, Continental shall liquidate one or more of the Thompson Companies or shall merge one or more of the Thompson Companies into or with Continental or any Continental subsidiary, which has acquired all of the capital stock of the Thompson Companies, the purchase price provided in Section 2 hereof shall be reduced by an amount equal to the sum of:

(i) the amount, if any, of the increase in excess of \$70,000 in the Federal income tax for the taxable year of Continental or any one or more of the Thompson Companies by reason of the application of section 47(a)(1) of the Internal Revenue Code to "section 38 property" (as defined in said Code) constructed, reconstructed, erected or acquired by any of the Thompson Companies after December 31, 1961 and prior to June 1, 1964; and

(ii) the combined normal and surtax federal corporate tax rate in effect for year of liquidation or merger, multiplied by the excess of:

(A) the amount by which the lower of the "recomputed basis" of all "section 1245 property" of the liquidated or merged Thompson Companies or the fair market value of all such "section 1245 property" on May 31, 1964 exceeds the "adjusted

basis" of such "section 1245 property" on May 31, 1964 (as all of such terms are defined in the Internal Revenue Code except that "fair market value" shall be deemed to be equal to the basis for depreciation for computing the Contingent Payment (Exhibit B)), over

(B) \$3,430,000.

(d) If Continental shall, subsequent to the Closing Date, fail to collect the accounts and notes receivable at the aggregate recorded amounts thereof less applicable reserves as described in Section 6(e) or discover any liabilities (other than (i) liabilities covered by subsections (a), (b) or (c) of this Section 11, (ii) liabilities arising out of the action in the Federal District Court for the Eastern District of New York by Frank Gilmartin d/b/a Schildmacher against Apex Tire & Rubber Co., (iii) unfunded pensions for three former employees named in the list referred to in Section 6(h)(8) hereof, (iv) returns and allowances with respect to goods shipped prior to May 31, 1964, or (v) other liabilities specifically indemnified against elsewhere in this Agreement) of Thompson, Apex, Monroe or Turner which existed as of May 31, 1964 but which were not reflected or reserved for in the May 31, 1964 Revised Combined Statement of Condition, then the purchase price hereunder shall be reduced to the extent that after giving effect

to the tax consequences thereof, based on The Assumed Rate of Taxation (as defined in Section 14(a) hereof) such undisclosed liabilities are not offset by any overstatement of liabilities or understatement of cash, receivables or other current assets (other than inventories) in said Combined Statement; provided, however, that no reduction of the purchase price shall be made with respect to such undisclosed liabilities unless the aggregate of all such net adjustments shall exceed \$50,000.

(e) Except to the extent specifically indemnified against elsewhere in this Agreement, Stockholders will jointly and severally indemnify and hold harmless Continental, any subsidiary or affiliate of Continental, and each of the Thompson Companies against any losses, expenses or damages arising out of inaccuracies or breaches of any of the representations, warranties, agreements or covenants of Stockholders or the Stockholders' Committee contained in this Agreement.

(f) Whenever, pursuant to one of the foregoing subsections of this Section 11, Stockholders are required to indemnify Continental, any subsidiary or affiliate of Continental, or any of the Thompson Companies but either (i) provision is not made in such subsection for an appropriate adjustment of the purchase price hereunder or (ii) the method of making such adjustment is not specifically set forth in

such subsection, then Continental shall, to the extent the then unpaid Instalments are sufficient therefor, first reduce such unpaid Instalments, in inverse order of their respective due dates, before taking any other steps to enforce said indemnity.

(g) Notwithstanding any other provisions of this Section 11, Continental shall have no right (i) to reduce any of the Instalments numbered 1 through 4 at any time; (ii) to reduce Instalments numbered 5 and 6 at any time after June 30, 1966 or (iii) to reduce Instalment numbered 7 at any time after the expiration of three and one-half years following the Closing Date.

12. Survival of Representations and Warranties

All indemnities, representations, warranties, agreements and covenants given or made by Stockholders or by Continental in this Agreement or in any certificate or other instrument delivered pursuant hereto shall survive the Closing and any investigation made at any time with respect thereto, provided that, except as set forth below, no claim with respect to any of such representations, warranties, agreements or covenants may in any event be asserted after the expiration of three and one-half years following the Closing Date:

(a) Claims pursuant to or arising under Sections 6(a), 9, 10, 11(a) and 11(b) hereof may be asserted at any time hereafter; and

(b) Claims with respect to the defects and other imperfections of title affecting Rhode Island real properties referred to in Section 6(g) hereof must be asserted within one year after the Closing Date.

13. Prepayment of Contingent Payment

(a) If Continental, prior to December 31, 1968, shall sell or cause to be sold, directly or indirectly, a substantial portion of the stock or assets of the Thompson Companies (otherwise than to Continental itself or to any of its subsidiaries or affiliates), Continental shall, if such sale shall be objected to by Norman M. Fain (personally and not by any assignee or legal representative), pay to the Stockholders' Committee the sum of \$6,000,000 plus simple interest thereon at the rate of 4% per annum from the Closing Date to the date of such sale, such payment to constitute a full satisfaction and discharge of the Contingent Payment otherwise payable pursuant to Section 2(c) hereof and Exhibit B hereto.

(b) Continental shall have the right at any time after the Closing Date to prepay the Contingent Payment and terminate all its obligations with respect thereto by paying to the Stockholders' Committee the sum of \$6,000,000 plus simple interest thereon at the rate of 4% per annum from the Closing Date to the date of such prepayment.

14. General

(a) As used in this Agreement the term "The Assumed Rate of Taxation" will be (a) the highest rate of Federal income tax payable for the year or other fiscal period in question which would be imposed under the internal revenue laws in effect for such years upon a single corporation (not filing a consolidated return with any parent or subsidiary thereof), plus (b) the product of an amount equal to 100% less the rate determined in clause (a) above, multiplied by the rate of all applicable state and local taxes, if any, imposed upon or measured by net income which would have been payable by the Thompson Companies or by Continental, as the case may be, for such year or other fiscal period under applicable state or local law.

(b) The section and subsection headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns; provided, however, that no assignment (otherwise than by operation of law) by any Stockholder of his interest under this Agreement,

in whole or in part, shall be valid or effective, without Continental's prior written consent. Nothing in this Agreement, expressed or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

15. Notices, Etc.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, first-class postage prepaid,

(a) If to Stockholders or to the Stockholders' Committee, to the Stockholders' Committee in care of Daniel Jacobs, Esq., 1000 Union Trust Building, Providence, Rhode Island, or

(b) If to Continental, to Mr. L. F. McCollum, Chairman of the Board, Continental Oil Company, Suite 4618, 30 Rockefeller Plaza, New York, New York, with a copy to A. Earl Hodges, Esq., Continental Oil Company, P. O. Box 2197, Houston, Texas 77001.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed and delivered this Agreement in Providence, Rhode Island, as of the date first above written.

STOCKHOLDERS

Norman M. Fain
Norman M. Fain, Guardian of
the person and estate of
Alfred A. Fain

Selma F. Pilavin
Norman M. Fain
Daniel Jacobs
Selma F. Pilavin, Norman M.
Fain and Daniel Jacobs,
Executors under the will
of Albert Pilavin, deceased

Faye Barbara Mayer
Faye Barbara Mayer
Lawrence F. Gates
Lawrence F. Gates

Helene P. Gates
Helene P. Gates

Faye Barbara Mayer
Faye Barbara Mayer, Trustee
for David L. Mayer, under
agreement dated January 9,
1962

Faye Barbara Mayer
Faye Barbara Mayer, Trustee
for Ellen E. Mayer, under
agreement dated January 9,
1962

M. Edgar Fain
M. Edgar Fain

Clyde D. Vasey
Norman M. Fain
Norman M. Fain and Lloyd D.
Tarlin, Trustees of The M.
Edgar Fain Irrevocable
Trusts, under agreement
dated December 26, 1962

Norman M. Fain
Clyde D. Vasey
Norman M. Fain and Lloyd D.
Tarlin, Trustees for
Elliot B. Fain, under agree-
ment dated December 26, 1962.

Norman M. Fain
Clyde D. Vasey
Norman M. Fain and Lloyd D.
Tarlin, Trustees for
Richard D. Fain, under
agreement dated December 26,
1962

Sally A. Fain Epstein
Clyde D. Vasey
Sally A. Fain Epstein and
Lloyd D. Tarlin, Trustees
for Sally A. Fain Epstein,
under agreement dated
December 14, 1962

Helene Gates
Helene Gates, Trustee for
Lisa S. Gates, under agree-
ment dated May 5, 1962

Irving Jay Fain
Irving Jay Fain

Evelyn Macie Fain
Norman M. Fain

Evelyn Macie Fain, Norman M. Fain and Melvin Irving Bernstein, Trustees of The Irving Jay Fain Irrevocable Trusts, under agreement dated June 11, 1962

Evelyn Macie Fain
Evelyn Macie Fain, Trustee
for Elizabeth Fain, under
agreement dated June 11, 1962

Evelyn Macie Fain
Evelyn Macie Fain, Trustee for
Lyle Stoneman Fain, under
agreement dated June 11, 1962

Norman M. Fain
Norman M. Fain

Rosalie B. Fain

Rosalie B. Fain, Leo Bakalar and Victor J. Baxt, Trustees of The Norman M. Fain Irrevocable Trusts, under agreement dated June 11, 1962

Lawrence A. Fain

Lawrence A. Fain and Lloyd D. Tarlin, Trustees for Lawrence A. Fain, under agreement dated December 26, 1962

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Jonathan D. Fain, under
agreement dated July 6, 1960

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Martha A. Fain, under agree-
ment dated July 6, 1960

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Wendy B. Fain, under agree-
ment dated July 6, 1960

M. Edgar Fain
M. Edgar Fain, Guardian of the
person and estate of Richard
Fain

Irving J. Fain
Irving J. Fain

E. Macie Fain
E. Macie Fain, Guardian of the
person and estate of
Elizabeth Fain

E. Macie Fain
E. Macie Fain, Guardian of the
person and estate of Lyle S.
Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of
the person and estate of
Jonathan D. Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of the
person and estate of Wendy B.
Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of the
person and estate of Martha A.
Fain

Faye Mayer

E. Macie Fain

E. Macie Fain

Rosalie B. Fain

Rosalie Fain

William L. Mayer

William L. Mayer

Victor J. Baxt

Victor J. Baxt

CONTINENTAL OIL COMPANY

(Corporate Seal)

By J. A. von Guelken 987c
Vice President JPB.

ATTEST:

R. J. Smith
Secretary

PARCEL I

That lot of land with all buildings and improvements thereon, situated on the northerly side of Oakland Avenue in the City of Pawtucket in the State of Rhode Island, laid out and delineated as Lot No. 482 (four hundred eighty two) in Section CXV upon that plat entitled, "The Oakland Plat Surveyed & Platted By Cushing & Co. April 1872", recorded in the records of Land Evidence in said City of Pawtucket on Plat Card 128.

Said lot is further bounded and described as follows: Beginning at the southeasterly corner of said lot at a point in said Oakland Avenue, and at the south westerly corner of land now or lately of Augusta B. Buettner et al, said point being seventy nine and 57/100 (79.57) feet westerly from the westerly line of York Avenue as measured along the northerly line of said Oakland Avenue; thence westerly bounding southerly on said Oakland Avenue forty (40) feet to land now or lately of Hay Realty Corp.; thence northerly bounding westerly on the last named land eighty five (85) feet to land now or lately of Arcito Castellucci et al; thence easterly bounding northerly on the last named land forty (40) feet to said land now or lately of Augusta B. Buettner et al and thence southerly bounding easterly on the last named land eighty five (85) feet to the place of beginning. Containing 3,400 square feet of land, more or less.

PARCEL II

That certain lot or parcel of land with all the buildings and improvements thereon situate on the southerly side of Oakland Avenue in the City of Pawtucket, State of Rhode Island, laid out and designated as Lot No. 532 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said lot is bounded and described as follows: Beginning at a point in the southerly line of Oakland Avenue, one hundred fifty-eight and 5/10 (158.5) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Walter W. Stuben et al, and running thence southerly bounding easterly on said Stuben et al land a distance of eighty-five (85) feet to land now or lately of Andrew G. Tait et al;

thence turning and running westerly bounding southerly on said Tait et al land a distance of fifty (50) feet to land now or lately of Darlington Fabrics Corp.; thence turning and running northerly bounding westerly on said last named land a distance of eighty-five (85) feet to said Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of fifty (50) feet to said Stuben land and the point and place of beginning.

PARCEL III

That lot of land with the buildings and improvements thereon, situated on the northerly side of Hughes Avenue in the City of Pawtucket, State of Rhode Island, laid out delineated as Lot No. 533 (five hundred thirty three) in Section CXXVII on "The Oakland Plat Surveyed & platted by Cushing & Co. April, 1872" recorded in the records of Land Evidence in said City of Pawtucket on Plat Card 128 and Plat Card 358.

Said lot bounds southerly on Hughes Avenue fifty (50) feet and holding that width extends northerly eighty five (85) feet to and bounds northerly on land now or lately of Robert S. Boyce et al., bounding easterly on land now or lately of Ida Schwertner et al., and westerly on land now or lately of Darling Fabric Corp.

PARCEL IV

That lot of land with all buildings and improvements thereon, situated on the northerly side of Oakland Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lot No. 479 (four hundred seventy nine) in Section CXIV on that plat entitled, "The Oakland Plat, surveyed and Platted by Cushing & Co. April, 1872 Rec. May 3, 1872", recorded with the Records of Land Evidence in said City of Pawtucket on Plat Card No. 358, said plat is also recorded with said Records on Plat Card No. 128.

Said lot bounds southerly on Oakland Avenue forty (40) feet, westerly on land now or lately of Albert A. and Doris H. Adams eighty five (85) feet, northerly on land now or lately of August and Mary Pimental (40) feet and easterly on land now or lately of George Grise eighty five (85) feet.

PARCEL V

That certain lot or parcel of land with all the buildings and improvements thereon situated on the southerly side of Robinson Avenue, in the City of Pawtucket, State of Rhode Island, laid out and designated as Lot No. 481 in North Section CXV on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872" which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said lot is bounded and described as follows: Beginning at a point in the southerly line of Robinson Avenue, eighty-one and 61/100 (81.61) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Apex Tire & Rubber Co., and running thence southerly bounding easterly on said last named land a distance of one hundred two and 67/100 (102.67) feet, more or less, to land now or lately of Palmer Corporation; thence turning and running westerly bounding southerly on said Palmer Corporation land a distance of forty (40) feet, more or less, to land now or lately of Flora Niebuhr; thence turning and running northerly bounding westerly on said last named land a distance of one hundred three and 23/100 (103.23) feet, more or less, to Robinson Avenue; thence turning and running easterly bounding northerly on said Robinson Avenue a distance of forty and 02/100 (40.02) feet to said first mentioned point or place of beginning.

PARCEL VI

Those two certain lots or parcels of land, with all the buildings and improvements thereon, situated on the northerly side of Hughes Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lots Nos. 534 (five hundred thirty four) and 537 (five hundred thirty seven) on that plat entitled, "The Oakland Plat surveyed & platted by Cushing & Co. April, 1872" and which said plat is recorded with the Land Records of said City of Pawtucket on Plat Card 358.

PARCEL VII

That certain lot or parcel of land with all the buildings and improvements thereon, situated at the northwesterly corner of Oakland Avenue and York Avenue,

laid out and designated as lot numbered four hundred seventy-eight (478) on that plat of land entitled "The Oakland Plat Surveyed and Platted by Cushing & Co. April, 1872", which said plat is duly recorded in the office of the City Clerk in said City of Pawtucket on Plat Card 128.

PARCEL VIII

That certain lot or parcel of land with all the buildings and improvements thereon situate at the south-westerly corner of Robinson Avenue and York Avenue, in the City of Pawtucket, State of Rhode Island, bounded and described as follows:

Beginning at the point of intersection of the southerly line of Robinson Avenue with the westerly line of York Avenue, and running thence southerly bounding easterly on York Avenue a distance of fifty-one and 52/100 (51.52) feet, more or less, to land now or lately of Apex Tire & Rubber Co.; thence turning and running westerly bounding southerly on said last named land a distance of eighty-one (81) feet, more or less, to land now or lately of Arcito W. Castellucci et al; thence turning and running northerly bounding westerly on said last named land a distance of fifty-two and 67/100 (52.67) feet, more or less, to Robinson Avenue; thence turning and running easterly bounding northerly on said Robinson Avenue a distance of eighty-one and 61/100 (81.61) feet, more or less, to York Avenue and the point or place of beginning.

Said parcel comprises the northerly part of Lots No. 477 and 480 in North Section CXIV on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872" which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

PARCEL IX

That lot of land with all buildings and improvements thereon, situated on the southerly side of Robinson Avenue in the City of Pawtucket in the State of Rhode Island, laid out and delineated as lot No. 484 (four hundred eighty four) in Block CXV of North Section of that plat entitled, "The Oakland Plat Surveyed & Platted by Cushing & Co. April 1872", recorded in the Records of Land Evidence in said Pawtucket on Plat Cards No. 128 and 358.

Said lot bounds northerly on Robinson Avenue forty and 01/100 (40.01) feet, easterly on land now or lately of

Arcito W. Castellucci et al one hundred two and 72/100 (102.72) feet, southerly on land now or lately of Hay Realty Corp. forty (40) feet, more or less, and westerly on land now or lately of Hay Realty Corp. one hundred three and 46/100 (103.46) feet.

PARCEL X

That certain tract or parcel of land with all the buildings and improvements thereon situate on the westerly side of York Avenue in the City of Pawtucket, State of Rhode Island, bounded and described as follows:

Beginning at a point in the westerly line of York Avenue, fifty-one and 52/100 (51.52) feet, more or less, southerly from the southerly line of Robinson Avenue, said point of beginning being at the southeasterly corner of land now or lately of Raymond G. Laliberte et al, and running thence southerly bounding easterly on said York Avenue a distance of fifty (50) feet to land now or lately of George Guise; thence turning and running westerly bounding southerly in part on said Guise land and in part on land now or lately of Palmer Corporation a distance of eighty and 34/100 (80.34) feet to land now or lately of Arcito W. Castellucci; thence turning and running northerly bounding westerly on said Castellucci land a distance of fifty (50) feet to said Laliberte land; thence turning and running easterly bounding northerly on said Laliberte land a distance of eighty-one feet, more or less, to said York Avenue and the point or place of beginning.

PARCEL XI

That certain tract or parcel of land with all the buildings and improvements thereon situate at the south-westerly corner of Oakland Avenue and York Avenue in the City of Pawtucket, State of Rhode Island, comprising Lots No. 538, 539, 540 and 541 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the office of the City Clerk of the City of Pawtucket, on Plat Card 128.

Said tract is bounded and described as follows:
Beginning at the point of intersection of the southerly line of Oakland Avenue with the westerly line of York Avenue, and running thence southerly bounding easterly on said York Avenue a distance of one hundred seventy and 32/100 (170.32) feet, more or less, to Hughes Avenue;

thence turning and running westerly bounding southerly on said Hughes Avenue a distance of seventy-six (76) feet, more or less, to land now or lately of Erich A. Horn et al; thence turning and running northerly bounding westerly in part on said Horn land and in part on land now or lately of Apex Tire & Rubber Co. a distance of one hundred seventy (170) feet, more or less, to Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of seventy-eight and 5/10 (78.5) feet, more or less, to said York Avenue and the point or place of beginning.

PARCEL XII

That certain tract or parcel of land with all the buildings and improvements thereon situate on the southerly side of Oakland Avenue, in the City of Pawtucket, State of Rhode Island, laid out and designated as Lots No. 535 and 536 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the Office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said tract is bounded and described as follows: Beginning at a point in the southerly line of Oakland Avenue, seventy-eight and 5/10 (78.5) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Vincent Zukowski et al, and running thence southerly bounding easterly on said Zukowski land a distance of eighty-five (85) feet to land now or lately of Erich A. Horn et al; thence turning and running westerly bounding southerly on said Horn land a distance of eighty (80) feet to land now or lately of Apex Tire & Rubber Co.; thence turning and running northerly bounding westerly on said last named land a distance of eighty-five (85) feet to Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of eighty (80) feet to said first mentioned point or place of beginning.

PARCEL XIII

That certain lot of land with all the buildings and improvements thereon, situated on the northerly side of Oakland Avenue in said City of Pawtucket and bounded and described as lot numbered 483 (four eighty-three) on that plat entitled "The Oakland Plat, surveyed & platted by Cushing & Company, April 1872" and recorded on Plat Card 128.

Said lot bounds southerly on Oakland Avenue 40 (forty) feet and holding that width extends northerly 85.16 (eighty-five and sixteen hundredths) feet, more or less, bounding westerly on land now or lately of Ralph G. Lumb, northerly on land now or lately of August and Christiana Honeke, and easterly on land now or lately of Victor and Alice Charron.

PARCEL XIV

Those four certain lots or parcels of land, with all the buildings and improvements thereon, situated on the southerly side of Saratoga Avenue and on the northerly side of Carter Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lots Nos. 3 (three), 4 (four), 9 (nine) and 10 (ten) on that plat entitled, "Montrose Park Pawtucket, R. I. J. E. Judson, Eng'r." and which said plat is recorded in the office of the City Clerk of said City of Pawtucket on Plat Card 313.

PARCEL XV

That certain tract or parcel of land situated between Central Avenue and Oakland Avenue in the City of Pawtucket, Providence County and State of Rhode Island bounded and described as follows:

Beginning at a point at the intersection of the southerly line of Robinson Avenue with the westerly line of York Avenue; thence running southerly bounding easterly on York Avenue one hundred eighty-six and 52/100 (186.52) feet to a point; thence turning an interior angle of $90^{\circ}-43'-20''$ and running westerly bounding southerly on Oakland Avenue five hundred seven and 73/100 (507.73) feet to a point; thence turning an interior angle of $90^{\circ}-06'$ and running northerly bounding westerly on land of Oakland Corporation along the easterly face of an existing brick wall one hundred nine and 19/100 (109.19) feet to a point; thence turning an interior angle of $89^{\circ}-49'$ and running easterly along the southerly face of an existing brick wall twenty-one (21.00) feet to a point; thence turning an exterior angle of 90° and running northerly in part along the easterly face of an existing brick wall and in part along the easterly face of an existing cement block wall seventy-nine and 80/100 (79.80) feet to a point in the southeasterly line of Central Avenue for a corner; thence turning an interior angle of $109^{\circ}-50'$ and running northeasterly bounding northwesterly on Central Avenue thirteen and 3/100 (13.03) feet to a point at the intersection of the southeasterly line of Central Avenue with the southerly line of Robinson Avenue; thence turning an interior angle of $159^{\circ}-28'-30''$ and running easterly bounding northerly on Robinson Avenue four seventy-six and 88/100

(476.88) feet to the point or place of beginning.

The above described parcel of land contains by estimation 95,500 sq. ft.

PARCEL XVI

That certain tract or parcel of land situated on the westerly side of Mendon Avenue in the City of Pawtucket, County of Providence and State of Rhode Island bounded and described as follows:

Beginning at a point at the intersection of the westerly line of Mendon Avenue with the southerly line of Hunts Avenue; thence running southerly along the westerly line of Mendon Avenue five hundred sixty-nine and 63/100 (569.63) feet to a point; thence turning an interior angle of 90° and running westerly bounding southerly on land now or lately of International Wire & Cable Corp. two hundred ten (210.00) feet to a point; thence turning an exterior angle of 90° and running southerly bounding easterly on land now or lately of said International Wire & Cable Corp. fifty-one (51.00) feet, more or less, to a point on the easterly boundary line of land formerly of the New York, New Haven and Hartford Railroad; thence running northwesterly on the boundary line of land formerly of the New York, New Haven and Hartford Railroad fifty-seven (57.00) feet, more or less, to a point; thence running northerly bounding westerly on land now or lately of said International Wire & Cable Corp. three hundred ninety-four and 35/100 (394.35) feet, more or less, to a point in the southerly line of Phillips Place for a corner; thence running northeasterly along the southerly line of Phillips Place twenty-nine and 4/100 (29.04) feet to a point; thence northerly bounding westerly on Phillips Place one hundred sixty-seven and 78/100 (167.78) feet, more or less, to said Hunts Avenue; thence running easterly bounding northerly on Hunts Avenue two hundred and 9/100 (200.09) feet, more or less, to the point or place of beginning..

The above described parcel of land contains by estimation 125,000 sq. ft.

PROCEDURE FOR COMPUTING CONTINGENT PAYMENT

As additional compensation to Stockholders, Continental, on March 1, 1969, will make a supplemental payment (hereinafter called the "Contingent Payment") to the Stockholders' Committee, as agents for the Stockholders. The amount of the Contingent Payment will not exceed \$6,000,000 plus simple interest computed at the rate of 4% per annum on the entire Contingent Payment from the Closing Date to March 1, 1969. The amount of the Contingent Payment will be equal to 60% of the "Cash Earnings" above the "Base Level" determined by Continental's independent public accountants, Arthur Young & Company, as follows:

1. "Cash Earnings" shall mean net income (excluding insurance recoveries under the claims asserted in connection with the fire referred to in Section 6(j) of the Sales Agreement) plus depreciation and amortization of good will, patent rights and underwriters' approvals during the period January 1, 1965 to December 31, 1968, inclusive (such period being herein called the "Contingent Period") generated by "Present Operations," "Logical Extension of Present Operations" and "Includible New Ventures" as defined in Sections 3, 4

and 5 hereof and attributable to the Thompson Companies and the properties purchased from Hay Realty.

2. The "Base Level" shall be \$10,000,000 unless the sum of capital investments made in "Present Operations," "Logical Extensions of Present Operations" and "Includible New Ventures" shall be less than \$10,000,000 during the Contingent Period, in which event the Base Level shall be determined according to the following formula:

$$\text{Base Level} = \$10,000,000 \times \left\{ \frac{(\$40,000,000 - X)}{2} \right\} \div \$40,000,000$$

where X equals \$10,000,000 less the amount of capital expenditures actually made during the Contingent Period.

3. "Present Operations" shall mean those operations being conducted as of the Closing Date in facilities owned, leased or used by the Thompson Companies, or which will be conducted between the Closing Date and December 31, 1968, in facilities now under construction or authorized prior to May 31, 1964.

Operations within the present product lines of the Thompson Companies in facilities which may be approved for construction between the Closing Date and December 31, 1968, also will be considered as Present Operations. Income from sale of know-how, royalty income, and income from operations conducted by third

parties, in whole or in part, directly for the benefit of one or more of the Thompson Companies shall also be considered as Present Operations.

4. "Logical Extensions of Present Operations" shall mean operations not now conducted or authorized by the Thompson Companies, but which require investment capital aggregating less than \$2,000,000 during the Contingent Period and are closely allied to Present Operations either in the manufacturing or marketing steps. Logical Extensions of Present Operations shall include, but are not limited to, rubber garden hose manufacture, manufacture of styrene-butadiene reinforcing crumb, manufacture of new types of plasticizers, and products of a similar nature.

5. "Includible New Venture" shall mean any project not described in Sections 3 and 4 above which is mutually agreed upon by Continental and the Stockholders' Committee.

6. For the purpose of determining the amount of Cash Earnings:

(a) Theoretical Federal and state income and other taxes will be computed as if the Thompson Companies (including the realty purchased from Hay Realty) had been operated as a single, independent corporation with deductions

pursuant to Sections 6(b) and 6(c) after January 1, 1965. Income taxes imposed on recapture of investment credits or depreciation taken prior to January 1, 1965 shall not be deducted from Cash Earnings.

(b) Interest on all long-term debts of the Thompson Companies and on the properties purchased from Hay Realty shall not be deducted from Cash Earnings. The entire amount of the interest on the Contingent Payment, however, will be considered as a cost in the determination of Cash Earnings regardless of whether accrued before, during or after the Contingent Period.

(c) Depreciation of assets of the Thompson Companies and the properties purchased from Hay Realty for computation of Cash Earnings and theoretical income taxes will be based on the following straight-line rates applied to the yearly average depreciable investment with no salvage value allowed:

Autos	25% per year
Diesel Tractors	25% per year
Gasoline Tractors	25% per year
Trailers	12.5% per year

Liquids Transport	12.5% per year
Office Equipment	10% per year
Laboratory Equipment	10% per year
Process Machinery & Equipment	9.1% per year
Process Buildings	9.1% per year
Other Buildings	4% per year

Classification of such assets shall be that allowable by the Internal Revenue Service, and the depreciable basis of such assets shall be (i) for Monroe, until liquidation, gross book value at January 1, 1965 plus the actual cost of capital investments made after January 1, 1965 and less the gross book value of assets retired after January 1, 1965; (ii) for Thompson, Apex and/or Turner, until liquidation, the "Net Sound Value" as reflected in the physical asset appraisal of The Lloyd-Thomas Co. referred to in Section 6(h)(2) of the Sales Agreement plus the actual cost of capital investments made after the date of such appraisal and less the "Net Sound Value" or actual cost, as the case may be, of assets retired since the date of such appraisal; (iii) actual cost with respect to the properties conveyed by Hay Realty pursuant to the Sales Agreement; and (iv) after liquidation of any one or

more of the Thompson Companies, the tax basis of the assets in the hands of the corporation or corporations receiving such assets on liquidation plus the actual cost of capital investments made after the date of such liquidation and less the tax basis or actual cost, as the case may be, of assets retired after such liquidation.

(d) Charges made by Continental for costs incurred in long-range product or process development, research and development expenses, or other staff services will be excluded from the Cash Earnings computation unless these charges are specifically authorized by the chief executive officer of the Thompson Companies. Continental charges for administrative overhead will be excluded from the Cash Earnings computation.

7. In the event Continental or any Continental subsidiary supplies products to any of the Thompson Companies, these products will be transferred at prices equal to the prices that Thompson Companies could have obtained under an arms-length long term contract for product of like quality and quantity.

8. Inventories will be valued at lower of cost or market. The methods and procedures of costing inventories will be those consistently followed by

the Thompson Companies in the past.

9. In no event shall Continental's method of financial accounting affect the computation of the Contingent Payment.

10. In no event shall the Contingent Payment exceed \$6,000,000 plus the interest referred to in the first paragraph of this Exhibit B.

11. All computations required for calculation of the Contingent Payment shall be made in accordance with generally accepted principles of accrual accounting applied on a consistent basis.

12. Notwithstanding any other provision of this Agreement, Continental shall have no obligation, either direct or indirect, to make any investment in or lend its credit to the development of the properties of the Thompson Companies or those purchased from Hay Realty.

REVISED

7/8/64

EXHIBIT C

84 B

COMBINED STATEMENTS OF CONDITION AT MAY 31, 1964

<u>APEX TIRE & RUBBER CO.</u>	<u>TURNER WAREHOUSE COMPANY</u>	<u>THOMPSON CHEMICAL COMPANY</u>	<u>MONROE MANUFACTURING COMPANY</u>	<u>TOTALS</u>
<u>A S S E T S</u>				
\$ 72,123	\$ 9,176	\$ 545,444	\$ 13,705	\$ 640,448
4,109,592	6,569	3,412,296	827,858	8,356,315
1,207,035	0	19,319	247	1,226,601
711,762	0	1,085,592	592,951	2,391,305
5,872	1,067	35,867	8,211	57,017
6,106,384	16,812	5,099,518	1,442,972	12,665,686
683,329	56,797	1,325,957	1,610,260	3,676,343
26,650	0	650	278	27,578
0	0	633,528	0	633,528
0	0	481,067	0	481,067
0	0	807,287	0	807,287
0	0	750,313	0	750,313
\$6,816,363	\$73,609	\$9,098,320	\$3,053,510	\$19,041,802
<u>L I A B I L I T I E S</u>				
\$2,025,235	\$ 0	\$3,253,057	\$2,173,575	\$ 7,451,867
250,000	0	160,000	500,000	910,000
520,245	1,119	415,999	47,074	984,437
2,795,480	1,119	3,829,056	2,720,649	9,346,304
0	0	1,170,000	0	1,170,000
505,579	3,574	594,902	27,216	1,131,271
94,000	0	10,000	0	104,000
0	0	962,069	0	962,069
258,592	5,000	184,729	20,000	468,321
2,701,031	51,812	1,673,992	(227,677)	4,199,158
971,960	15,678	1,290,572	540,338	2,818,548
510,279	3,574	617,000	27,016	1,157,869
461,681	12,104	673,572 (1)	513,322	1,660,679
3,421,304	68,916	2,532,293	395,645	6,328,158
\$6,816,363	\$73,609	\$9,098,320	\$3,053,510	\$19,041,802
Dec. 31	Dec. 31	MAY 31	SEPT. 30	

FOR
CLAIM.

That certain tract or parcel of land together with the buildings and improvements thereon situated between Central Avenue and Oakland Avenue in the City of Pawtucket, County of Providence and State of Rhode Island, bounded and described as follows:

Beginning at a point in the northerly line of Oakland Avenue two hundred seventy-nine and thirty-five one-hundredths (279.35) feet easterly from the intersection of the northerly line of Oakland Avenue with the easterly line of Mendon Avenue, thence turning an interior angle of $89^{\circ}-57'-10''$ and running northerly along the easterly line of Lot 499 and Lot 500 in Square CXIX, North Section, The Oakland Plat surveyed & platted by Cushing & Co. April, 1872, said plat being duly recorded on Plat Card 128 and Plat Card 358 in the office of the recorder of deeds at Pawtucket, R.I., one hundred eighty and forty-six one-hundredths (180.46) feet to a point in the southeasterly line of Central Avenue for a corner; thence turning an interior angle of $109^{\circ}-47'-50''$ and running northeasterly along the southeasterly line of Central Avenue twenty-five and seventeen one-hundredths (25.17) feet to a point for a corner, thence turning an interior angle of $70^{\circ}-10'$ and running southerly in part along the easterly face of an existing cement block wall and in part along the easterly face of an existing brick wall seventy-nine and eighty one-hundredths (79.80) feet to a corner, thence turning an interior angle of 90 degrees and running westerly along the southerly face of an existing brick wall twenty-one (21) feet to a corner, thence turning an interior angle of $270^{\circ}-11'$ and running southerly along the easterly face of an existing brick wall one hundred nine and nineteen one-hundredths (109.19) feet to a point in the northerly line of Oakland Avenue for a corner, thence turning an interior angle of $89^{\circ}-54'$ and running westerly along the northerly line of Oakland Avenue two and eighty-seven one-hundredths (2.87) feet to the point or place of beginning.

EXHIBIT E

Conveyed by Apex Tire & Rubber Co. to Apex Incorporated

Parcel One: lot No. 511 on the plat entitled "The Oakland Plat. Surveyed & Platted By Cushing & Co. April 1872."

Parcel Two: lot No. 188 and 189 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and drawn in December, 1895 by R. H. Tingley, Eng'r."

Parcel Three: Lot No. 190 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and drawn in December, 1895 by R. H. Tingley, Eng'r."

Parcel Four: Lots "A" and 192 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and Drawn in December, 1895 by R. H. Tingley, Eng'r."

Conveyed by Thompson Chemical Company to Apex Incorporated

Lot No. 4 on the plat entitled "Part of the Oakland Plat Belonging to J. B. Hunt Surveyed & Platted June, 1873 by A. R. Sweet."

THOMPSON CHEMICAL COMPANY

MINUTES OF A SPECIAL MEETING OF STOCKHOLDERS
HELD ON DECEMBER 7, 1965

A special meeting of the stockholders of Thompson Chemical Company, a Rhode Island corporation, was held at 1000 Union Trust Building, Providence, Rhode Island, at 10:00 A. M. on December 7, 1965.

The Chairman ascertained that all of the outstanding shares of Common Stock of the Corporation were represented at the meeting by proxy. The Chairman directed that the proxy representing such shares be filed with the minutes of the meeting.

The Chairman presented to the meeting a waiver of notice signed by the holder of the proxy representing all of the outstanding shares of Common Stock of the Corporation and directed that the said waiver of notice be filed with the minutes of this meeting.

The Chairman stated that it was recommended that the Corporation be liquidated on or before December 31, 1965 and that its assets be distributed to Continental Oil Company, the sole stockholder of the Corporation, in complete liquidation of the Corporation and in complete cancellation and redemption of all of its stock. He stated that, in connection with the dissolution, Continental would assume all obligations of the Corporation and, retaining the Corporation's assets, would operate the

business of the Corporation, either directly or through a subsidiary or division of Continental.

The Chairman then presented to the meeting a copy of a proposed Plan of Liquidation of the Corporation dated December 1, 1965. Thereupon, on motion duly made and seconded and after discussion, the following resolutions were unanimously adopted:

RESOLVED,

(1) that the Plan of Liquidation of the Company dated December 1, 1965, a copy of which has been submitted to this meeting, is hereby approved, and the Secretary is hereby directed to file a copy of said Plan with the records of this meeting;

(2) that the Company be dissolved and that its assets be distributed to Continental Oil Company, as the sole stockholder thereof, in complete cancellation and redemption of all of the capital stock of the Company;

(3) that the proper officers of the Company are hereby authorized, on behalf of the Company, to execute, deliver and/or file all such other instruments and to take all such other action, as they may deem necessary or advisable in connection with said dissolution and in order to carry out said Plan of Liquidation, including, without limiting the generality of the foregoing, authorizing counsel to appear for and on behalf of the Company in connection with the petition to be filed by or on behalf of Continental Oil Company for the dissolution of the Company, and authorizing said counsel to waive issuance and service of any subpoena in connection with said petition and to join therein, and the execution and delivery of an instrument or instruments between the Company and Continental Oil Company, providing for the transfer to Continental Oil Company of all assets

of the Company, and for the assumption by Continental Oil Company of all obligations of the Company.

RESOLVED.

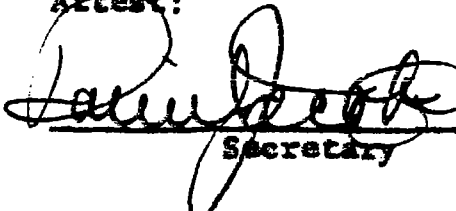
That this corporation shall discontinue its business, liquidate its business, assets and affairs, distribute its assets, capital and surplus to its stockholder as a complete liquidation of the corporation in full payment in exchange for all of the capital stock, not later than December 31, 1965 and dissolve; that the officers of this corporation or any of them and the holder of the issued and outstanding capital stock of this corporation, in their several capacities, are authorized and directed to discontinue the business of the corporation; to dispose of all assets and business property; to collect and receive accounts and notes receivable and all other amounts and obligations due to the corporation; to pay all debts and obligations and the legal and other expenses of liquidation and dissolution; to prepare and file all appropriate tax and other returns and governmental forms; to make, execute and deliver any instrument and all instruments and to take such other steps as they in their discretion shall deem necessary or desirable to evidence, effectuate and accomplish the said objectives and purposes; to file or cause to be filed a petition for the dissolution of this corporation and to engage counsel for that purpose; to engage and authorize the same or other counsel to appear for and in behalf of the corporation in respect to and in connection with such petition and to waive the issuance of any subpoena and the filing of any answer and to join with the petitioner in the prayer for the dissolution of the corporation and to take all other appropriate steps to the end and purpose, as they may be advised.

There being no other business to come before the meeting,

on motion duly made and seconded, the meeting was adjourned.

ADJOURNED.

Attest:


Secretary

THOMPSON CHEMICAL COMPANY

PLAN OF LIQUIDATION

WHEREAS, Continental Oil Company, a Delaware corporation (hereinafter referred to as Continental), is the holder of all outstanding stock of Thompson Chemical Company, a Rhode Island corporation (hereinafter referred to as Thompson); and

WHEREAS, it is contemplated that a petition to dissolve Thompson signed by such stockholder will be filed with the Superior Court for the County of Providence in the State of Rhode Island pursuant to Section 7-5-17 of the General Laws of Rhode Island, 1956, as amended;

NOW, THEREFORE, this Plan provides that:

1. Thompson is to effect its complete liquidation and dissolution in accordance with the applicable provisions of the Rhode Island General Corporation Law and all of its assets are to be distributed to Continental, as holder of all outstanding stock of Thompson, in complete liquidation of Thompson and in complete cancellation and redemption of all of its stock. Upon such liquidation, Continental, as the sole stockholder of Thompson, will assume all obligations of Thompson.

2. The foregoing steps are to be completed on or before December 31, 1965.

Dated: December 1, 1965

INDENTURE

INDENTURE, dated December 31, 1965, between THOMPSON CHEMICAL COMPANY, a Rhode Island corporation (the Subsidiary), and CONTINENTAL OIL COMPANY, a Delaware corporation (the Parent).

WHEREAS, it is intended that the Subsidiary be duly dissolved pursuant to a Plan of Liquidation, dated December 1, 1965, which provides for the distribution of all of its assets to the Parent as the holder of all the Subsidiary's capital stock and the assumption by the Parent of all obligations of the Subsidiary; and

WHEREAS, by this Indenture, the Subsidiary intends to assign, transfer and convey to the Parent all of its property, rights, contracts, business as a going concern and assets which are not assigned, transferred or conveyed to the Parent by other instruments;

AND, THEREFORE, as a distribution in complete liquidation of the Subsidiary, and in complete cancellation and redemption of all of its stock, the Subsidiary hereby assigns, transfers, and conveys to the Parent all of the Subsidiary's right, title and interest, legal or equitable, in and to all of the property, rights, contracts, business as a going concern and assets, of any nature, tangible and intangible, wherever situate, which the Subsidiary possessed, held or owned at the time of delivery of this Indenture, including, without limitation, the trade connections and lists of customers of the


[REDACTED] patents, know-how, copyrights and all trademarks, trade names and registrations thereof, including the good will of the business associated therewith, and the exclusive right to use the name "Thompson Chemical Company" or any similar name or names and all other corporate names and trade names to the full extent owned or controlled by the Subsidiary;

TO HAVE AND TO HOLD the property, rights, [REDACTED] business and assets hereby assigned, transferred and [REDACTED] to the Parent forever.

SECTION 1. The Subsidiary hereby agrees that [REDACTED] upon the acquisition thereof, it will assign, transfer, and convey to the Parent any property, rights, or assets acquired by the Subsidiary subsequent to the date of this Indenture or accrued or received in respect of the property transferred hereunder.

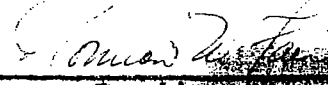
SECTION 2. The Subsidiary hereby constitutes and appoints the Parent its attorney, with full power of substitution, [REDACTED] of the Subsidiary, but for the benefit of the Parent, to demand and receive any and all of the property transferred hereunder, and to bring proceedings of any kind with respect to such property and any claim or right of any kind hereby assigned, transferred and conveyed, the Subsidiary hereby declaring that the foregoing powers are coupled with an interest and shall be irrevocable.

SECTION 3. The Parent hereby assumes all the debts, liabilities, contracts and commitments, absolute or contingent, of the Subsidiary, existing at the date hereof.

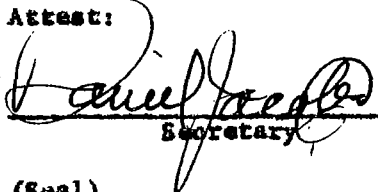
 4. As used herein, the word "Parent" shall be deemed to include the successors and assigns of the Parent.

IN WITNESS WHEREOF, the parties hereto have duly executed this Indenture as of the close of business on the day and year first above written.

THOMPSON CHEMICAL COMPANY

By 
President

Attest:


Secretary

(Seal)

CONTINENTAL OIL COMPANY

By 
Vice President

Attest:


Assistant Secretary

(Seal)



STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

CONTINENTAL OIL COMPANY)

-vs-

) Equity No. 32386

THOMPSON CHEMICAL COMPANY)

FINAL DECREE

This cause came on to be heard upon the petition to dissolve the respondent corporation and upon the answer of the respondent thereto, and it appearing that by unanimous vote of all of the stock of the respondent corporation issued and outstanding, the stockholders have determined to dissolve said respondent corporation; that all debts and obligations thereof have been discharged or provided for; that all taxes to the State of Rhode Island have been paid or provided for and that notice has been given pursuant to the order of notice herein, dated December 7, 1965, it is

ORDERED, ADJUDGED and DECREED:

That the respondent corporation, Thompson Chemical Company, existing under the laws of the State of Rhode Island, be and the same hereby is dissolved.

Entered as an order of the Court this 31st day of December, 1965.

By order,

ENTER:

Mackenzie, J.
12/31/65

Joseph Q. Calista
Ass't. Clerk

Joseph Q. Calista
CLERK

Exhibit E

OF
CERTIFICATE OF INCORPORATION

THOMPSON APEX COMPANY, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

FIRST, That the Board of Directors of THOMPSON APEX COMPANY by unanimous consent duly adopted the following resolution setting forth a proposed amendment to the Certificate of Incorporation of said corporation, declaring said amendment to be advisable. The resolution setting forth the proposed amendment is as follows:

RESOLVED, That the Certificate of Incorporation of this corporation be amended, said amendment to take effect the date of registration of the amendment to the Certificate of Incorporation hereinabove set forth with the Recorder of New Castle County, Delaware, as hereinbelow provided, by changing the Article of the Certificate of Incorporation numbered "FIRST" so that as amended such Article shall read as follows:

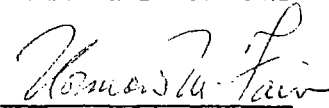
"FIRST: The name of the corporation is TEKNOR APEX COMPANY."

SECOND, That thereafter, said amendment was duly adopted, by written consent thereto by all stockholders entitled to vote, pursuant to sections 242 and 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said THOMPSON APEX COMPANY has caused its corporate seal to be hereunto affixed and this certificate to be signed by Norman M. Fain, its President this 27 day of August, 1968.

THOMPSON APEX COMPANY

By


Norman M. Fain
President

ATTEST:

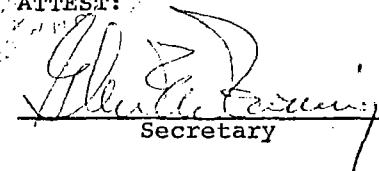

Secretary

Exhibit F

TEKNOR APEX COMPANY

ELMGROVE CORPORATION

AGREEMENT OF MERGER

AGREEMENT OF MERGER dated this 16th day of March, 1971,

pursuant to Section 251 of the General Corporation Law of the State of Delaware, between TEKNOR APEX COMPANY, a Delaware corporation, and ELMGROVE CORPORATION, a Delaware corporation.

WITNESSETH that:

WHEREAS, both of the constituent corporations desire to merge into a single corporation, as hereinafter specified and provided; and

WHEREAS, TEKNOR APEX COMPANY, (originally organized as "Thompson Apex Company"), by its Certificate of Incorporation which was filed in the office of the Secretary of State on December 9, 1964, as amended by Certificate of Amendment dated August 27, 1968 and filed in the office of the Secretary of State on September 20, 1968 recorded in the Records Office at Wilmington, Delaware in Incorporation Record H, Volume 96, Page 108 on September 20, 1968 (said Amendment changing the name of the corporation to "Teknor Apex Company"), has authorized capital stock consisting of ten (10) shares, all of one class, each such

are having the par value of One Hundred (\$100.00) Dollars, amounting in the aggregate to One Thousand (\$1,000.00) Dollars, of which said ten (10) shares, are all now issued and outstanding and which will, upon the filing hereof, be canceled; and

WHEREAS, ELMGROVE CORPORATION by its Certificate of Incorporation which was filed in the office of the Secretary of State on July 2, 1968 and recorded in the office for the Recording of Deeds at Dover in and for the County of Kent Incorporation Record P, Volume 35, Page 1 on July 2, 1968, has an authorized capital stock consisting of ten (10) thousand shares of common stock of One (\$1.00) Dollar per share par value of which capital stock one hundred (100) shares are now issued and outstanding;

WHEREAS the registered office of Teknor Apex Company is located at 100 West Tenth Street in the City of Wilmington, County of New Castle, and the name of its registered agent at such address is The Corporation Trust Company; and

WHEREAS, the registered office of Elmgrove Corporation is 229 South State Street, City of Dover, County of Kent, and the name of its registered agent at such address is The Prentice-Hall Corporation System Inc.;

NOW, THEREFORE, the corporations, parties to this Agreement in consideration of the mutual covenants, agreements and provisions

hereinafter contained do hereby prescribe the terms and conditions of said Merger and mode of carrying the same into effect as follows:

FIRST: Teknor Apex Company hereby merges into itself Elmgrove Corporation and Elmgrove Corporation shall be and hereby is merged into Teknor Apex Company which shall be the surviving corporation.

SECOND: The Certificate of Incorporation of Teknor Apex Company, as heretofore amended and as is hereby further amended so that Article FOURTH shall read as follows:

"FOURTH: The total number of shares of stock which the corporation shall have authority to issue is ten thousand (10,000) shares, all of one class, and each such share shall have a par value of One (\$1.00) Dollar, amounting in the aggregate to Ten Thousand (\$10,000.00) Dollars."

THIRD: The manner of converting the outstanding shares of the capital stock of each of the constituent corporations into the shares or other securities of the surviving corporation shall be as follows:

(a) All of the common stock of Teknor Apex Company consisting of ten (10) shares held and owned by Elmgrove Corporation shall be surrendered and canceled.

(b) After the effective date of this agreement each holder of a outstanding certificate representing shares of common stock of Elmgrove Corporation shall surrender the same to the surviving corporation and each such holder shall be entitled upon such surrender to receive an equal number of shares of

the common stock of the surviving corporation.

FOURTH: The terms and conditions of the Merger are as

follows:

(a) The by-laws of the surviving corporation as they shall exist on the effective date of this agreement shall be and remain the by-laws of the surviving corporation until the same shall be altered, amended or repealed as therein provided.

(b) The directors and officers of the surviving corporation shall continue in office until the next annual meeting of stockholders and until their successors shall have been elected and qualified.

(c) This merger shall become effective upon filing with the Secretary of State of Delaware.

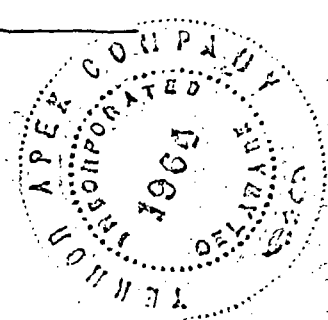
(d) Upon the merger becoming effective, all the property, rights, privileges, franchises, patents, trademarks, licenses, registrations and other assets of every kind and description of the merged corporation shall be transferred to, vested in and devolve upon the surviving corporation without further act or deed and all property, rights, and every other interest of the surviving corporation and the merged corporation shall be as effectively the property of the surviving corporation as they were of the surviving corporation and the merged corporation respectively. The merged corporation hereby agrees from time to time, as and when requested by the surviving corporation or by its successors or assigns, to execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further or other action as the surviving corporation may deem necessary or desirable in order to vest in and confirm to the surviving corporation title to and possession of any property of the merged corporation acquired or to be acquired by reason of or as a result of the merger herein provided for and otherwise to carry out the intent and purposes hereof and the proper officers and directors of the merged corporation and the proper officers and directors of the surviving

corporation are fully authorized in the name of the merged corporation or otherwise to take any and all such action.

IN WITNESS WHEREOF, the parties to this agreement, pursuant to the approval and authority duly given by resolutions adopted by their respective boards of directors have caused these presents to be executed by the President and attested by the Secretary of each party hereto, and the corporate seal affixed.

TEKNOR APEX COMPANY

By Victor J. Baxt
Victor J. Baxt, President



ATTEST:

By Herbert Malin
Herbert Malin, Secretary

ELMGROVE CORPORATION

By Norman M. Fain
Norman M. Fain, President



ATTEST:

By Victor J. Baxt
Victor J. Baxt, Secretary

BILL OF SALE OF PERSONAL PROPERTY

KNOW ALL MEN BY THESE PRESENTS, that CONTINENTAL OIL COMPANY, a corporation existing under the laws of the State of Delaware, and having a place of business in the City of Pawtucket, County of Providence, State of Rhode Island (hereinafter called the "SELLER") for Ten Dollars (\$10.00) and other good and valuable consideration paid to it by THOMPSON APEX COMPANY, a corporation existing under the laws of the State of Delaware, having a place of business in said City of Pawtucket, (hereinafter called the "BUYER") the receipt whereof is hereby acknowledged, does hereby bargain, sell and deliver unto said THOMPSON APEX COMPANY the following personal property:

1. All machinery, equipment and other tangible personal property of a capital nature (excluding office furniture, fixtures and equipment) located in or heretofore used in connection with the business of the SELLER in any and all building or buildings in the City of Pawtucket, State of Rhode Island.

2. All machinery, equipment and other tangible personal property of a capital nature (excluding office furniture, fixtures and equipment) located in or heretofore used in connection with the business of the SELLER in any and all building or buildings in the City of Attleboro and the Town of Seekonk, Commonwealth of Massachusetts.

3. All machinery, equipment and other tangible personal property of a capital nature (excluding office furniture, fixtures and equipment)

located in or heretofore used in connection with the business of the SELLER in the Town of Wilmington, Commonwealth of Massachusetts.

4. All office furniture, fixtures and equipment of the SELLER in said buildings in said Pawtucket, Attleboro, Seekonk, and Wilmington.

5. The automobiles, trucks, trailers, tractors, tanks and tank-trailers set forth in the schedule attached hereto entitled "Apex Transportation Equipment".

6. All manufacturing, shipping, transportation, office, warehouse and other business supplies of every kind and nature in or used in connection with said buildings in said Pawtucket, Attleboro, Seekonk and Wilmington.

7. All raw materials, goods in process and finished merchandise and all other property in the category of "Inventory" in said Pawtucket, Attleboro, Seekonk and Wilmington.

TO HAVE AND TO HOLD, all and singular the said personal property to the said THOMPSON APEX COMPANY and its successors and assigns, to their use and behoof forever.

And the SELLER does hereby covenant with the BUYER that it is the lawful owner of the said personal property, that the same is free from all encumbrances, that it has good right to sell the same as aforesaid, and that it will warrant and defend the same against the lawful claims and demands of all persons.

IN WITNESS WHEREOF said CONTINENTAL OIL COMPANY has hereunto caused these presents to be executed by its duly authorized officer and its corporate seal to be affixed this 1st day of July 1968.

CONTINENTAL OIL COMPANY

BY Gordon A. Cain
Gordon A. Cain, Vice President

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CONTINENTAL OIL COMPANY
and
ELMGROVE CORPORATION

AGREEMENT and SCHEDULES

as signed in New York on July 24 , 1968

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AGREEMENT dated July 24, 1968 between CONTINENTAL OIL COMPANY, a Delaware corporation (Seller), and ELMGROVE CORPORATION, a Delaware corporation (Purchaser),

WHEREAS, pursuant to the Federal Trade Commission Decision and Order bearing Docket No. C-1270 (the Consent Order), Seller has agreed to divest certain of its assets, properties, rights and privileges;

WHEREAS, a portion of such assets, properties, rights and privileges are owned by Thompson Apex Company, a Delaware corporation (Thompson Apex), all of the outstanding capital stock of which is owned by Seller; and

WHEREAS, Purchaser is willing to buy from Seller, and Seller is willing to sell to Purchaser, all of the outstanding capital stock of Thompson Apex (the Thompson Apex Stock);

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree as follows:

1. SALE OF STOCK.

At the Closing, Seller will assign, transfer and deliver to Purchaser the Thompson Apex Stock, in exchange for the consideration set forth in Section 2.

2. CONSIDERATION FOR SALE OF STOCK.

The consideration for the Thompson Apex Stock shall be \$14,000,000, \$2,000,000 of which is to be paid at the Closing referred to in Section 3, and the balance of which is to be paid in installments (Installments), as follows:

No. 1	\$1,100,000	First Anniversary of Closing
No. 2	\$1,100,000	Second Anniversary of Closing
No. 3	\$1,100,000	Third Anniversary of Closing
No. 4	\$1,100,000	Fourth Anniversary of Closing
No. 5	\$1,100,000	Fifth Anniversary of Closing
No. 6	\$1,100,000	Sixth Anniversary of Closing
No. 7	\$5,400,000	Seventh Anniversary of Closing

The down payment of \$2,000,000 and the Installments and interest thereon are to be paid in good funds by checks drawn on a bank or banks which are members of the New York Clearing House Association.

2.1. Interest on Installments. Interest on all Installments shall accrue from the date of the Closing at a rate per annum which is equal to the minimum commercial lending rate, from time to time in effect, of Morgan Guaranty Trust Company of New York. Any change in interest rate resulting from a change in such minimum commercial lending rate shall be effective at the beginning of the business day next

following each such change in rate. Interest on all Installments shall be payable annually on the anniversaries of the date of the Closing, commencing with the first anniversary of the date of the Closing.

2.2. Prepayment of Installments. Purchaser shall have the right at any time or from time to time to prepay, without penalty, in whole or in part, any of the Installments. Any such prepayment shall be first applied to interest accrued to the date of prepayment and any remaining amount applied to such Installment of Installments as Purchaser may designate.

2.3. Acceleration of Installments. Upon the occurrence of any of the following events, all unpaid Installments and accrued interest thereon shall become immediately due and payable on Seller's demand:

(a) failure of Purchaser to pay any Installment, or interest thereon, on the due date thereof, provided such nonpayment continues for a period of ten days after Purchaser has been notified of such failure;

(b) the approval by any United States District Court or judge thereof of the filing of any petition by or against Purchaser or Thompson Apex under the Federal Bankruptcy Act as now or hereafter in force;

(c) the execution and delivery by Purchaser or Thompson Apex of a general assignment for the benefit of its creditors;

(d) the appointment of a receiver of Purchaser or Thompson Apex by a court of competent jurisdiction, which appointment shall not have been vacated within a period of 30 days after the date of such appointment;

(e) the failure of Purchaser to comply with the obligations imposed upon it by Section 2.5 hereof, provided such failure continues for a period of ten days after Purchaser has been notified of such failure;

(f) the failure of Thompson Apex to comply with the terms and conditions of the mortgage described in Section 2.5 hereof, provided such failure continues for a period of ten days after Purchaser has been notified of such failure.

2.4. Guaranty of Installments. The due and punctual payment of the principal of, and interest on, Installments Nos. 1, 2 and 3 shall be guaranteed by Norman M. Fain, a stockholder of Purchaser. Such guaranty shall be substantially in the form annexed hereto as Exhibit A. Norman M. Fain, by his signature at the end of this Agreement, agrees to execute and deliver such guaranty at the Closing.

2.5. Security for Installments. Until the amount of all of the Installments has been paid in full, Purchaser will not pay any dividends or make any other distributions with respect to its capital stock. Purchaser further agrees that, until the amount of all Installments has been paid in full, it will deliver to Seller (a) within 90 days after the end of each fiscal year of Purchaser, a consolidated balance sheet of Purchaser and Thompson Apex as of the end of such fiscal year and consolidated statements of income of Purchaser and Thompson Apex for such year, which financial statements shall be certified by Price Waterhouse & Co. or by such other independent public accountants as may then be engaged by Purchaser; and (b) within 60 days after the end of the first half of each fiscal year of Purchaser, an unaudited consolidated balance sheet of Purchaser and Thompson Apex as at the end of such first half year and an unaudited consolidated statement of income for the six months then ended, similarly prepared and certified by an authorized financial accounting officer of Purchaser. As security for the payment of the Installments, Purchaser shall cause Thompson Apex, on the date of the Closing, to guarantee the due and punctual payment of the Installments by executing and delivering a guaranty substantially in the form of Exhibit B and as collateral security for such guaranty, to execute and deliver to Seller its mortgage, substantially in the form annexed hereto as Exhibit C.

3. REPRESENTATIONS AND WARRANTIES BY SELLER.

3.1. Organization. Thompson Apex is a corporation duly organized, validly existing and in good standing under the laws of Delaware, has the corporate power and is duly authorized to carry on its business where and as now conducted and to own, lease and operate properties as it now does, and is qualified as a foreign corporation in Mississippi, Rhode Island and Texas. Thompson Apex shall have been qualified as a foreign corporation in Massachusetts on the earliest date on which such qualification is required. Thompson Apex owns no capital stock of any other corporation. The copies of the Certificate of Incorporation and By-Laws of Thompson Apex which have been delivered to Purchaser are complete and correct as of the date hereof.

3.2. Capitalization. The entire authorized capital stock of Thompson Apex consists of 10 shares, par value \$100 per share, all of which are issued and outstanding. All such shares have been validly issued and are fully paid and non-assessable. There are no outstanding warrants, options, rights, calls or commitments of any kind relating to, or restrictions upon the transfer of, any issued or unissued shares of the capital stock of Thompson Apex.

3.3. Ownership of Capital Stock; Authorization. Seller is the record and beneficial owner of 10 shares of

the capital stock of Thompson Apex, free and clear of all claims, liens and encumbrances. Seller has the legal power and right to enter into and perform this Agreement; the execution, delivery and performance of this Agreement by Seller have been duly authorized by all requisite corporate proceedings; and the consummation of the transactions contemplated by this Agreement will not result in the breach or termination of any term or provision of, or constitute a default under, any indenture, mortgage, deed of trust or other agreement or instrument to which Seller or Thompson Apex is a party, or by which either of them or their property is bound.

3.4. Financial Statement. Seller has made, or prior to the Closing will make, all such transfers and conveyances to Thompson Apex (and Thompson Apex will make all such transfers and conveyances) as to make the pro forma balance sheet of Thompson Apex as at June 30, 1968, which is attached hereto as Exhibit D, substantially correct.

3.5. Title. Thompson Apex has, or at the time of the Closing will have, good and marketable title to all of its assets and properties (including all those reflected on the pro forma balance sheet described in Section 3.4., except as since sold or otherwise disposed of in the ordinary course of Thompson Apex's business) free and clear of any claims, liens or encumbrances, except: (a) for the liens

of current taxes not yet due and payable and such imperfections of title, easements and encumbrances, if any, as are insubstantial in character, amount and extent and do not materially detract from the value or interfere with the present use of the properties subject thereto or affected thereby or otherwise materially impair business operations; and (b) those claims, liens or encumbrances which have been created by acts of the officers (other than Glen E. Downing) of Seller's Thompson Apex Division or of Thompson Apex whose regular place of employment is Pawtucket, Rhode Island or Hebronville, Massachusetts.

3.6. Taxes. Thompson Apex has filed all federal, state and local tax returns required to be filed and has paid or made provision for payment of all taxes due and payable on or before the date hereof. There are no claims pending against Thompson Apex for past due taxes, nor does Seller know of any threatened claims, and there are no outstanding waivers or agreements by Thompson Apex for the extension of the time for the assessment of any tax.

3.7. Lists of Properties, Contracts, etc. Schedule A, which has been delivered to Purchaser by Seller, contains complete and accurate lists and descriptions of the following (giving effect to all transfers contemplated by Section 3.4):

3.7.1. All insurance policies of Thompson Apex.

3.7.2. Deeds and title insurance policies and Massachusetts Land Court Decrees relating to all real property owned by Thompson Apex and lists of major items of its plant, properties, machinery and equipment and other physical property physically located at Pawtucket, Rhode Island and Hebronville and Wilmington, Massachusetts, and all material written leases, contracts, agreements, commitments and understandings of any nature (including, but not limited to, franchise, patent, trademark and royalty agreements), except those executed on behalf of Thompson Apex or Seller's Thompson Apex Division by officers (other than Glen E. Downing) whose regular place of employment is Pawtucket, Rhode Island or Hebronville, Massachusetts, and which cannot be terminated by Thompson Apex at any time on less than thirty days' notice without liability. The copies of such leases, contracts, agreements, commitments and understandings which have been delivered to Purchaser are true and complete copies of the originals.

3.7.3. All pension, profit-sharing, bonus and retirement and other employee benefit plans of Thompson Apex.

3.7.4. The names of all present directors and officers of Thompson Apex.

3.7.5. The name of each bank in which Thompson Apex has an account or safe deposit box and the names of all persons presently authorized to draw thereon or have access

thereto and the names of all persons, if any, now holding powers of attorney from Thompson Apex and a summary statement of the terms thereof.

3.7.6. All trucks, trailers, automobiles and transportation equipment presently owned or leased by Thompson Apex.

3.7.7. All inventions, patents, patent applications, technology, know-how, trademarks (including service marks), trademark registrations and applications for registration, trade names and copyrights owned by Thompson Apex, subject to the provisions of Section 6.7.

3.8. Compliance with Contracts and Commitments.

To the best of Seller's knowledge, Thompson Apex and Seller have complied with the provisions of all leases, contracts, agreements, commitments and understandings affecting the business or properties of Thompson Apex, and no default exists under any thereof.

3.9. Litigation; Compliance with Laws. To the best of Seller's knowledge, except for the counterclaim of Murray Tire Company in a suit in Raleigh, North Carolina and the Consent Order and the stipulation referred to in Section 6.6, and except for matters which are being supervised by officers (other than Glen E. Downing) of Seller's Thompson Apex Division or of Thompson Apex whose regular place of employment is in Pawtucket, Rhode Island or Hebronville,

Massachusetts, there is no litigation, proceeding (not compensated by insurance) or governmental investigation pending, or any order, injunction or decree outstanding, against or relating to Thompson Apex, its assets or business, nor does the Seller know of any basis for any such litigation, proceeding, or governmental investigation.

Except as Seller has previously advised Purchaser in writing, Seller knows of no violation of any applicable law, order, regulation or requirement relating to the business or properties of Thompson Apex (including zoning regulations and laws relating to the employment of labor).

3.10. Working Capital. Subject to the provisions of Section 5, on the date of the Closing Thompson Apex will have working capital of \$4,000,000. For the purposes of this Agreement, working capital shall mean the excess of current assets (cash, accounts and notes receivable, inventories, deposits, prepaid expenses and deferred charges) over current liabilities (accounts payable, taxes and other obligations the regular and ordinary liquidation of which is expected to occur within twelve months).

3.11. Other Liabilities. On the date of the Closing Thompson Apex shall have no indebtedness having a maturity of more than twelve months.

3.12. Completeness of Representations and Warranties. Seller has made no representations or warranties other than

those contained in this Agreement with respect to the Thompson Apex business or properties, or the rights or title thereto, or with respect to the value of any thereof or the earnings or earnings capacity of Thompson Apex; and except as to those matters upon which Seller has made specific representations herein, Purchaser relies and shall rely solely on its own independent examinations, inspections, estimates, computations, reports, studies and knowledge of such properties, assets and rights.

4. REPRESENTATIONS AND WARRANTIES BY PURCHASER:

Purchaser hereby represents and warrants to Seller as follows:

4.1. Organization. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of Delaware.

4.2. Authorization. Purchaser has full power and authority to enter into and to perform this Agreement in accordance with its terms; the execution and delivery of this Agreement by Purchaser have been duly authorized by all requisite corporate proceedings; and Purchaser is not bound by or subject to any contractual or other obligation that would be violated by its execution or performance of this Agreement.

4.3. Investment Representation. Purchaser is acquiring the Thompson Apex Stock for its own account for

investment and not with a view to selling or otherwise distributing the same.

5. ON DISTRIBUTION AND DIVIDENDS.

5.1. Amount due to Seller. At or prior to the Closing, Seller shall cause Thompson Apex to provide for a distribution (the Distribution) to be made after July 31, 1968 to Seller, either by declaring a dividend, or redeeming a portion of the outstanding stock of Thompson Apex. The Distribution shall be in an aggregate amount to be determined as provided in Section 5.2, and shall be paid in the manner provided in Section 5.3.

5.2. Amount of Distribution. The aggregate amount of the Distribution shall be determined as follows:

5.2.1. As soon as practicable, Seller shall cause Arthur Young & Company, Seller's independent public accountants, to supervise the valuation of the inventory of Thompson Apex and to prepare, certify and deliver to the parties (i) a balance sheet of Thompson Apex as at July 31, 1968, and (ii) a determination of the working capital of Thompson Apex (as defined in Section 3.10) as at such date. Price Waterhouse & Co., Purchaser's independent public accountants, shall be entitled to be present when the inventory is counted and to inspect such of the books and records of Thompson Apex and the working papers of Arthur Young & Company as Price Waterhouse & Co. shall deem necessary. Such balance sheet shall be

prepared in accordance with generally accepted accounting practices and principles, applied on a consistent basis, subject to the following:

(a) All items of inventory shall be valued at the lower of cost or market, in accordance with the procedures followed in valuing prior inventories at the Pawtucket, Hebronville and Wilmington facilities, except as provided in Exhibit E with respect to certain finished goods;

(b) All accrued but unpaid liabilities of Thompson Apex, including, but not limited to, taxes, payrolls, vacation pay and fringe benefits of employees, and commissions payable to salesmen and manufacturers' representatives shall be prorated as at July 31, 1968;

(c) A reserve shall be established for bad debts, doubtful accounts, returns, rebates, allowances and all other customary inventory adjustments, including a reserve for all product warranties in connection with goods sold and delivered prior to July 31, 1968, in the amount of \$190,000;

(d) Excluded Receivables and Liabilities (as defined in Section 5.4) shall not be taken into account;

(e) The claim against Howe Scale Company shall be valued at \$1; and

(f) Each class of items of fixed assets shall be valued at its book value (or, if different from book value, its adjusted basis for federal income tax purposes).

5.2.2. The balance sheet and determination of working capital delivered as provided in Section 5.2.1 shall be final and binding unless Price, Waterhouse & Co. objects to any of the items contained therein within ten days after the balance sheet and determination are delivered. If such an objection is made, the disputed items, if not resolved by the parties within five days thereafter, shall be submitted to a third firm of independent public accountants, to be chosen jointly by the parties among Arthur Andersen & Co., Lybrand, Ross Bros. & Montgomery, and Touche, Ross, Bailey & Smart for a final and binding determination. The fees and expenses of such third accounting firm shall be shared equally by the parties.

5.2.3. The aggregate amount of the Distribution shall be equivalent to the excess of (i) the working capital of Thompson Apex on July 31, 1968, determined as provided above, over (ii) \$4,000,000.

5.3. Payment of Distribution. The Distribution shall be paid to Seller as follows:

5.3.1. At the Closing, Thompson Apex shall transfer and deliver to Seller all of the cash and Certificates of

Deposit owned by Thompson Apex on July 31, 1968.

5.3.2. After Thompson Apex has collected proceeds of accounts receivable existing on July 31, 1968 (other than Excluded Receivables) in an amount equal to the sum of (a) Thompson Apex's current liabilities (other than Excluded Liabilities) as at July 31, 1968, and (b) the excess of (i) \$4,000,000 plus the amount of all reserves to be shown on the balance sheet as provided in Section 5.2.1, over (ii) the aggregate value of Thompson Apex's inventories as at July 31, 1968 plus the amount of Thompson Apex's prepaid expenses as at such date which are not distributed to Seller as part of the Distribution, Thompson Apex shall remit all of the further proceeds of the accounts receivable existing on July 31, 1968, on a weekly basis, to Seller's account at Morgan Guaranty Trust Company of New York, until the amount of the Distribution has been paid in full, or until January 2, 1969, whichever shall be earlier. For the purposes of the preceding sentence, until the determination of working capital has become final and binding in accordance with Section 5.2, the amount of Thompson Apex's accounts receivable, the value of its inventories and the amount of its current liabilities shall be taken as set forth on the books of Thompson Apex as at July 31, 1968. Within five days after the determination of working capital has become final and binding, Seller shall pay to Thompson

Apex, in cash, an amount equal to the excess, if any, of the amounts received by Seller pursuant to Section 5.3.1 and this Section 5.3.2 over the amount of the Distribution.

5.3.3. On January 2, 1969, Thompson Apex shall pay to Seller in cash any portion of the Distribution which remains unpaid on such date.

5.4. Excluded Receivables and Liabilities.

Prior to the Closing, Seller shall cause Thompson Apex to segregate upon its books and records any accounts receivable and liabilities which relate to goods manufactured at the facilities of Thompson Apex or Seller located at Assonet, Massachusetts and Aberdeen, Mississippi (Excluded Receivables and Liabilities). From the date hereof until the Closing, Excluded Liabilities shall be paid by Thompson Apex only for the account of Seller, which shall provide Thompson Apex with sufficient funds therefor. To the extent that Thompson Apex collects proceeds of Excluded Receivables, it shall remit to Seller or its designee any such proceeds on the business day following receipt. Seller hereby indemnifies Thompson Apex and agrees to hold it harmless against any loss, damage or expense incurred or suffered by Thompson Apex after the date of the Closing with respect to any Excluded Liabilities.

5.5. Post-Closing Adjustments. From time to time prior to the Closing, in accordance with its past practices, Seller shall make any advances to or for the benefit of Thompson Apex which may be required to enable Thompson Apex to meet its liabilities as they become due and payable, and may withdraw funds of Thompson Apex. In addition, Thompson Apex may perform various services with respect to Seller's Assonet operations. As soon as practicable after the Closing, the parties shall prepare an accounting, showing the amounts of all such advances and withdrawals made between July 31, 1968 and the date of the Closing, together with the amounts owing to Thompson Apex for the cost of such services. To the extent that the sum of (i) such withdrawals and (ii) any amounts owing to Thompson Apex for such services exceeds (iii) such advances (other than those made with respect to Excluded Liabilities, as provided in Section 5.4) the excess shall be promptly paid by Seller to Thompson Apex. To the extent that (iii) above exceeds the sum of (i) and (ii) above, the excess shall be added to the amount of the Distribution and paid in accordance with Section 5.3.

6. FURTHER AGREEMENTS OF THE PARTIES.

6.1. Access to Information. Prior to the date of the Closing, Purchaser and its representatives may make such investigation of the properties, assets and business of Thompson Apex as it may reasonably require and Seller shall cause Thompson

Apex to give to Purchaser and to its counsel, accountants and other representatives full access during normal business hours up to the date of the Closing to all of the properties, books, contracts, commitments, records and files of Thompson Apex and shall furnish the Purchaser during such period all such documents and information concerning its business and affairs as Purchaser may reasonably request.

6.2. Conduct of Thompson Apex Business Pending the Closing. From the date hereof until the Closing, except as Purchaser may consent in writing, Seller shall take all such action as may be required so that:

6.2.1. The business of Thompson Apex shall be conducted only in the ordinary course, which, without limitation, shall include the maintenance in force of insurance policies comparable in amount and scope of coverage to those listed in Schedule A.

6.2.2. Except for such amendments as may be required to change the name of Thompson Apex to Apex Chemical Company or such other name as may be approved by Purchaser, no change shall be made in the Certificate of Incorporation or By-Laws of Thompson Apex.

6.2.3. Except to the extent permitted by Section 5.1, no change shall be made in the authorized or issued capital stock of Thompson Apex, and no options, warrants or rights to purchase shares of its capital stock or securities convertible into its capital stock shall be issued or granted.

6.2.4. The properties and assets of Thompson Apex (after giving effect to the transfers contemplated by Section 3.4) shall be maintained in good condition and repair.

6.2.5. Except as otherwise requested by Purchaser or as otherwise contemplated hereunder, Seller shall use its best efforts, with respect to its businesses at Pawtucket,

Rhode Island and Hebronville and Wilmington, Massachusetts to preserve the business organization of Thompson Apex intact, to keep available the services of its present employees, and to preserve the good will of all those having business relations with it.

6.2.6. Except to the extent permitted by Section 5.1, no dividend or other distribution shall be declared or made in respect of any shares of the capital stock of Thompson Apex.

6.2.7. No general increase shall be made by Thompson Apex in any rate or rates of salaries or compensation of employees or agents, and no specific increase shall be made in the salary or compensation of any employee or agent whose total salary and compensation after such increase would be at an annual rate in excess of \$10,000.

6.2.8. Thompson Apex shall duly comply with all laws, regulations, ordinances, orders, injunctions and decrees applicable to it and to the conduct of its business.

6.3. Pension Plans. Purchaser presently intends to cause Thompson Apex to continue in effect the contributory and noncontributory pension plans of Thompson Apex, described in Schedule A, or as they may be amended, prior to the Closing, subject to the provisions therein for amendment or termination, and to provide such funding in addition to the employee contributions as may be required; provided, however, that in

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the event of the amendment and continuation of such plans into separate plans relating to employees at one or more facilities, Thompson Apex shall be concerned only with the continuation of the plans (the Continued Plans) relating to the employees at the date hereof at the Pawtucket, Rhode Island and Hebronville, Massachusetts facilities operated by Thompson Apex (the Pawtucket and Hebronville Employees); provided further that the Purchaser intends to cause Thompson Apex to perform its responsibility of continuing to fund the benefits payable to the Pawtucket and Hebronville Employees under such Continued Plans which are not attributable to employee contributions. Under the Continued Plans Seller represents that assets on hand, assuming employee deposits through July 31, 1968, with respect to the Pawtucket and Hebronville Employees, including employee accumulated contributions of \$173,486.75, now have a book value of \$334,222.75. Seller further represents that Thompson Apex has the right to remove the trustee under the Continued Plans and appoint a successor trustee thereunder upon 60 days' notice to the present Trustee.

6.4. Compliance with the Consent Order. From the date hereof until the date of the Closing, Purchaser shall act in accordance with the provision of Section II of the Consent Order and shall cooperate fully with Seller and the Federal Trade Commission to expedite the requisite Federal Trade Commission approval of the transactions contemplated by

this Agreement.

6.5. Tax Returns. Seller will cause Thompson Apex to close its books on the date of the Closing and to file a federal income tax return (and any state or local income or franchise tax returns permitted to be filed) for the period from January 1, 1968 to the date of Closing. Purchaser will cause Thompson Apex to file all other applicable state and local income and franchise tax returns for the calendar year 1968. Seller shall reimburse Purchaser for the amount of any such state and local income or franchise taxes that are applicable to the period from January 1, 1968 to July 31, 1968, except to the extent that such taxes have been accrued on the balance sheet referred to in Section 5.2.1.

6.6. Compliance with Stipulation. Purchaser agrees that, from and after the Closing, in compliance with the "Stipulation in Lieu of Restraining Order and Final Decree", Peter F. Gagner, et al. v. Thompson Chemical Company, Purchaser shall not cause Thompson Apex to reactivate the buildings known as V-1 and V-2 for the manufacture or storage of poly vinyl chloride and the use of poly vinyl chloride monomer in such manufacture and will not bring to said premises any of such monomer.

6.7 Patents and Trademarks. The parties acknowledge that the trademarks owned by Thompson Apex at the time

of the Closing will be subject to the right of the purchaser of Seller's other facilities pursuant to the Consent Order to use the "TA" trademark until the bags on which such trademark appears have been disposed of. In addition, all inventions, patents, patent applications, technology and know-how owned by Thompson Apex at the Closing will be subject to (i) Seller's non-exclusive, royalty-free irrevocable right to use same for the benefit of itself and its subsidiaries in the United States of America and to sub-license the same outside the United States of America, (ii) the prior grant of an exclusive license in a License Agreement made the 8th day of June, 1967 between Continental Oil Company and Staveley Continental Limited, a United Kingdom corporation, and (iii) a non-exclusive, royalty-free irrevocable right, without accounting to Thompson Apex, by Olin Mathieson Chemical Corporation (Olin) to the use of such technology and know-how and patent claims in the practice of the polymerization of vinyl chloride as has been heretofore practiced in the polymerization facilities located at Assonet, Massachusetts, and the further right to sub-license such rights throughout the world, such rights of Olin being subject also to the aforesaid License Agreement.

6.8. Further Assurances. From time to time after the Closing, Seller shall without further consideration execute and deliver to Purchaser or Thompson Apex all assignments, conveyances and instruments, and shall take such further

action, as Purchaser or Thompson Apex may request in order more fully to effect the transfers and other transactions contemplated by this Agreement.

6.9. Action by Purchaser. Purchaser shall cause Thompson Apex to take all action required to be taken by it hereunder after the Closing, including the payment of the Distribution provided for in Section 5, and shall cause the Board of Directors of Thompson Apex, as constituted after the Closing, to ratify all such action.

6.10. Thompson Name. Prior to the Closing Seller will notify Plastifay Kimya Industrisi A.O., the licensee under the Technical Service Agreement and Trademark Agreement described in Schedule A, that said agreements, subsequent to Closing, will be performed by Thompson Apex and that where the name "Thompson Chemical Company" has been utilized in the said Technical Service Agreement and Trademark Agreement, the licensee should substitute Thompson Apex. Purchaser recognizes that subsequent to Closing Thompson Apex will have no right, title or interest in the name "Thompson," except that Thompson Apex may continue to use the name "Thompson" on packaging materials on hand on the date of the Closing until such materials have been disposed of or consumed.

6.11. Foreign Sales Representatives. Seller has certain written and oral sales representatives agreements for sales representation in foreign countries. Prior to the Closing said agreements shall be assigned to Thompson Apex and after the Closing, without limitation as to time, Purchaser shall cause Thompson Apex to indemnify and hold harmless Seller and Olin, their successors and assigns, from and against any and all claims for commissions payable and expenses in connection with such claims, which

may arise by reason of the shipment by Seller or Olin of poly vinyl chloride and poly vinyl chloride products into the countries covered by said agreements, except with respect to orders procured through such foreign sales representatives.

7. CONDITIONS PRECEDENT TO CLOSING.

7.1. Conditions to the Obligations of Purchaser.

The obligations of Purchaser under this Agreement are subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

7.1.1. Except as expressly contemplated hereby, all representations and warranties of Seller shall be true at and as of the time of the Closing with the same effect as though such representations and warranties had been made at and as of such time, and Seller shall have performed and complied with all obligations, covenants and conditions required by this Agreement to be performed or complied with by it, prior to or at the Closing.

7.1.2. Purchaser shall have received an opinion of Andrew K. McColpin, Esq., counsel for the Seller, satisfactory in form and substance to Purchaser and its counsel, as to the matters stated in Sections 3.1, 3.2 and 3.3.

7.1.3. All requisite approvals of the Federal Trade Commission to the transactions contemplated by this Agreement shall have been obtained, and at the date of the Closing no suit, action or other proceeding shall be pending before any

court or governmental agency in which it is sought to restrain or prohibit the consummation of such transactions.

7.1.4. The business, properties and assets of Thompson Apex shall not have been adversely affected in any material way as a result of any fire, accident or other casualty or any labor disturbance or Act of God or the public enemy.

7.1.5. Thompson Apex shall have surrendered its rights to do business as a foreign corporation in the States of Mississippi and Texas.

SELLER
(2) 7.1.6. Purchaser shall have consummated the sale of its Assonet, Massachusetts facilities to Olin.

7.2. Conditions to the Obligations of Seller.

The obligations of Seller under this Agreement are subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

7.2.1. All representations and warranties of Purchaser to Seller shall be true at and as of the time of the Closing with the same effect as though such representations and warranties had been made at and as of such time, and Purchaser shall have performed and complied with all obligations, covenants and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

7.2.2. Seller shall have received a favorable opinion of Messrs. Simpson Thacher & Bartlett, counsel for Purchaser, satisfactory in form and substance to Seller and its counsel, as to the matters stated in Sections 4.1 and 4.2, and as to the due authorization by, and corporate power of,

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Thompson Apex to execute and deliver the guaranty and mortgage referred to in Section 2.5.

7.2.3. The condition set forth in Sections 7.1.3 and 7.1 shall be satisfied.

8. CLOSING.

8.1. Time and Place of Closing. The Closing hereunder shall take place at the offices of Seller, 30 Rockefeller Plaza, New York, New York at 10:00 o'clock A.M. on the seventh business day following final Federal Trade Commission approval of the transactions contemplated by this Agreement. If such Federal Trade Commission approval has not been obtained within sixty days after the date of the execution of this Agreement or if, due to causes beyond the control of Seller and Purchaser, the Closing cannot take place within thirty days after the receipt of such Federal Trade Commission approval then, unless otherwise agreed in writing by the parties, this Agreement shall terminate without liability of any kind on the part of either Purchaser or Seller.

8.2. Action Taken at the Closing. At the Closing the following shall occur:

8.2.1. Seller shall deliver to Purchaser certificates for the total number of shares of the outstanding capital stock of Thompson Apex. Each certificate shall be in form proper for transfer, with all necessary documentary tax stamps affixed and cancelled.

8.2.2. Seller shall deliver to Purchaser resignations, effective the date of the Closing, of those officers and directors of Thompson Apex designated by Purchaser.

8.2.3. Seller shall deliver to Purchaser all of the minute and stock books, records, correspondence and other papers and documents. During the period of 30 days after the Closing, Seller may remove such of its Thompson Apex Division's books, records, correspondence, papers and documents which are presently in Pawtucket (the Pawtucket Records) as Seller deems necessary to a commercial warehouse within 20 miles of Pawtucket, Rhode Island. If any of the Pawtucket Records are so removed, they shall be stored there for a period of not less than three years, after which they shall be stored at Ponca City, Oklahoma for an additional period of not less than two years, during all of which times such removed Pawtucket Records shall remain the property of Seller, except that for a period of five years following the date of Closing, Thompson Apex or its duly authorized representatives shall be permitted access thereto during normal business hours, and after any of the Pawtucket Records have been removed to Ponca City, Seller shall provide Thompson Apex with copies of such portions thereof as Thompson Apex may reasonably request. Seller shall have access to the books and records of Thompson Apex for a period of five years from Closing.

8.2.4. Purchaser shall deliver to Seller the check or checks representing the down payment described in Section 2.

8.2.5. Purchaser shall deliver to Seller the guaranty of Norman M. Fain described in Section 2.4.

8.2.6. Purchaser shall cause Thompson Apex to deliver

to Seller the guaranty and mortgage described in Section 2.5.

8.2.7. Seller shall deliver to Purchaser certificates for all of the outstanding capital stock of Apex Tire and Rubber Company, a Delaware corporation, in form proper for transfer, with all requisite documentary tax stamps affixed and cancelled, and all books and records of Apex Tire and Rubber Company.

8.2.8. Seller shall cause Thompson Apex to cancel, effective on the date of the Closing, all outstanding policies of insurance on the assets, properties and business of Thompson Apex, except such policies of insurance as Purchaser may designate to Seller in writing at least three days prior to the date of the Closing.

8.2.9. Thompson Apex and Seller shall enter into an agreement in the form of Exhibit F, annexed hereto.

9. SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION.

9.1. Survival. Notwithstanding any investigation made at any time by or on behalf of Purchaser or Seller, the obligations of the parties with respect to their respective representations and warranties shall survive the Closing. The parties shall be liable for damages arising from their misrepresentations or from breaches of their warranties only to the extent that notice of a claim therefor is delivered to the party liable within one year of the Closing, except that with respect to the representations and warranties contained in Sections 3.6 and 6.5, Seller shall be liable for damages if such notice is delivered to it before the expiration of the statute of limitations applicable to the tax involved, and with respect to the representations and warranties contained in Section 3.3, Seller shall be liable for damages without any such limitation as to time.

9.2. Indemnification. Subject to the time limitations of Section 9.1, Seller shall indemnify and hold the Purchaser and Thompson Apex harmless against any loss, liability or expense which Purchaser or Thompson Apex may suffer, sustain or become subject to as a result of (i) any breach of any of the representations, warranties and agreements made by Seller, and (ii) any claims for damage to, or loss of, property of others, including loss of use of such property, resulting from defective merchandise, other than garden hose, shipped by Thompson Apex (or by Seller) prior to the Closing. Subject to the time limitations of Section 9.1, Purchaser shall indemnify and hold the Seller harmless against any loss, liability, damage or expense which it may suffer, sustain or become subject to as a result of any breach of any representation or warranty by Purchaser.

10. MISCELLANEOUS.

10.1. Expenses. All legal, accounting and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses. Seller shall pay all sales, transfer and documentary stamp taxes which may be required to be paid in connection with the transactions provided for herein.

10.2. Brokers. The parties respectively represent and warrant that they have not employed or utilized the services of any brokers or finders in connection with this Agreement or the transactions contemplated hereby. Each party

agrees to indemnify the other from and against the claims of any broker or finder claiming to have acted on behalf of such party.

10.3. Entire Agreement; Binding Effect. This Agreement constitutes the entire agreement among the parties, and there are no representations, warranties or agreements among the parties except as herein specifically set forth.

10.4. Governing Law; Amendments. Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the law of the State of New York applicable to contracts made and to be performed therein, and cannot be changed or terminated orally.

10.5. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by registered mail to the parties at the following addresses (or at such other address for a party as shall be specified by notice given pursuant hereto):

(i) if to Purchaser:

505 Central Avenue
Pawtucket, Rhode Island 02862
Attention: President

(ii) if to Seller:

9 Rockefeller Plaza
New York, New York 10021
Attention: Vice President and
General Manager,
Petrochemical Department

10.6. Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

10.7. Waiver. Any party may waive compliance by another with any of the provisions of this Agreement. No waiver of any provision shall be construed as a continuing waiver of that or any other provision.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written.

CONTINENTAL OIL COMPANY

By GORDON A. CAIN AK

ELMGROVE CORPORATION

By NORMAN M. FAIR

PRESIDENT

The provisions of Section 2.4 are agreed to:

NORMAN M. FAIR
Norman M. Fair

GUARANTY

FOR VALUE RECEIVED, NORMAN M. PAIN (Guarantor), residing at 730 Elmgrove Avenue, Providence, Rhode Island, hereby guarantees the due and punctual payment of the principal amounts of and interest upon Installments Nos. 1, 2 and 3 of the purchase price payable by Elmgrove Corporation to Continental Oil Company pursuant to Agreement of Sale dated July , 1968, which Installments are more fully described in Section 2 of said Agreement.

Guarantor's liability hereunder shall be unaffected by any amendment or modification of the provisions of the afore-said Agreement, or any extension of time for performance by Elmgrove Corporation or any other guarantor of its obligation or any waiver by Continental Oil Company of any right which it may have against Elmgrove Corporation or any other guarantor of Elmgrove's obligation.

No failure on the part of Continental Oil Company to exercise and no delay in exercising any right hereunder will operate as a waiver thereof nor will any single or partial exercise by Continental Oil Company of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided for hereunder are cumulative and not exclusive of any other remedies provided by law.

IN WITNESS WHEREOF the Guarantor has executed this Guaranty on this day of , 1968.

Norman M. Pain

GUARANTY

FOR VALUE RECEIVED, THOMPSON APEX COMPANY, a Delaware corporation (Guarantor), having its principal office at 505 Central Avenue, Pawtucket, Rhode Island, hereby guarantees the due and punctual payment of the principal amounts of and the interest upon all Installments of the purchase price payable by Elmgrove Corporation to Continental Oil Company pursuant to Agreement of Sale dated July , 1968, which Installments are more fully described in Section 2 of said Agreement.

Guarantor's liability hereunder shall be unaffected by any amendment or modification of the provisions of the aforesaid Agreement or any extension of time for performance by Elmgrove Corporation or any other guarantor of its obligation or any waiver by Continental Oil Company of any right which it may have against Elmgrove Corporation or any other guarantor of Elmgrove's obligation.

No failure on the part of Continental Oil Company to exercise and no delay in exercising any right hereunder will operate as a waiver thereof nor will any single or partial exercise by Continental Oil Company of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided for hereunder are cumulative and not exclusive of any other remedies provided by law.

The obligations of the Guarantor hereunder are secured by a mortgage of today's date covering the real and personal property described therein, which property is located in the City of Pawtucket, County of Providence, State of Rhode Island, and the City of Attleboro and Town of Seekonk, Bristol County, and the Town of Wilmington, Middlesex County, Commonwealth of Massachusetts.

IN WITNESS WHEREOF the Guarantor has executed this Guaranty on the day of , 1968.

THOMPSON APEX COMPANY

Attest:

By _____

Secretary

EXHIBIT C

MORTGAGE DEED

THOMPSON APEX COMPANY, a Delaware corporation having a business address at 505 Central Avenue, Pawtucket, Rhode Island ("Mortgagor") for consideration paid, hereby grants to CONTINENTAL OIL COMPANY, a Delaware corporation having a business address at 30 Rockefeller Plaza, New York, New York ("Mortgagee"), to secure the payment of Mortgagor's obligations under a guaranty of today's date (the "Guaranty") of certain contractual obligations of Elmgrove Corporation, a Delaware corporation ("Elmgrove") under an Agreement dated July , 1968 between Mortgagee and Elmgrove, the following:

1. The real property situated in the City of Pawtucket, County of Providence, State of Rhode Island described in Schedule A.

2. The real property situated in the Town of Wilmington, County of Middlesex, Commonwealth of Massachusetts described in Schedule B.

3. The real property situated in the City of Attleboro and the Town of Seekonk, County of Bristol, Commonwealth of Massachusetts and registered in the Massachusetts Land Court described in Schedule C.

4. The real property situated in the City of Attleboro and the Town of Seekonk, County of Bristol

Commonwealth of Massachusetts described in Schedule D.

5. All machinery, equipment and other tangible personal property owned by Mortgagor which is located at the premises of Mortgagor situated on (i) the real property in the City of Pawtucket, County of Providence, State of Rhode Island described in Schedule A, (ii) the real property in the Town of Wilmington, County of Middlesex, Commonwealth of Massachusetts described in Schedule B, and (iii) the real property in the City of Attleboro and the Town of Seekonk, County of Bristol, Commonwealth of Massachusetts described in Schedules C and D; but excluding all office furniture, fixtures and equipment, all automobiles, trucks, trailers, tractors, tanks and tank-trailers, all manufacturing, shipping, transportation, office, warehouse and other business supplies, all raw materials, goods in process, finished merchandise and other inventory items, and all property hereafter acquired by Mortgagor of whatever nature.

Mortgagor covenants with Mortgagee that, so long as it is obligated under the Guaranty:

1. Mortgagor shall maintain, preserve and keep in full force and effect its corporate existence,

franchises, rights and privileges in Delaware and its license or qualification to do business as a foreign corporation in the States of Massachusetts and Rhode Island.

2. Mortgagor shall maintain the mortgaged property in the same condition as it exists on the date of this mortgage, usual wear and tear resulting from the utilization of such property, and damage or destruction by fire or other casualty excepted.

3. Mortgagor shall use the mortgaged property in the operation of its business, except for possible selective shutdowns of particular operations or general shutdowns which are temporary in nature, or which are caused by labor disputes or Acts of God.

4. Mortgagor shall punctually pay and discharge, or cause to be paid or discharged before the same become delinquent, all taxes, assessments and governmental charges and levies imposed upon Mortgagor or Mortgagor's income, profits, properties and assets or any part thereof, and all claims for labor, material and supplies which if unpaid might by law become a lien or charge upon any of the mortgaged properties, provided, however, that Mortgagor need not pay any such tax, assessment, charge or levy, or any such claim, the validity of which is, at the time, being contested in

good faith by appropriate proceedings promptly initiated and diligently conducted. Mortgagor further agrees to pay any ad valorem or excise tax that is imposed upon the mortgaged property, even though such tax may be by law imposed upon Mortgagee.

5. Mortgagor shall secure and maintain in force and effect, insurance coverage on the mortgaged property and the operations being conducted by Mortgagor, as described on Schedule hereto. Mortgagee shall be named as an additional insured in any such policies of insurance, as its interest may appear. Mortgagor shall deliver to Mortgagee true copies of all such insurance policies, and shall instruct the Insurer to afford Mortgagee 10 days' written notice prior to the cancellation of any thereof.

6. Notwithstanding any other provision of this Mortgage Deed, and without obtaining the approval or consent of Mortgagee, Mortgagor may sell or otherwise dispose of any of the items of personal property mortgaged hereunder, to the extent that the aggregate value of the items so sold or disposed of (determined on the basis of their book value as at July 31, 1968) between August 1 in any calendar year and July 31 in the following calendar year does not exceed \$100,000.

Without limiting the foregoing, Mortgagee shall, without further consideration, execute and deliver all such consents, releases or other documents as may be requested by Mortgagor to effect any such sale or disposition.

7. The failure of Mortgagor to comply with its obligations hereunder or under the Guaranty shall constitute a default. If there is a default, and Mortgagor fails to correct such default within 30 days after receipt of written notice thereof from Mortgagee, the entire obligation of Mortgagor under the Guaranty shall, at the option of Mortgagee be matured.

8. Any demand, notice or request by either party to the other shall be sufficiently given if delivered to the party intended to receive the same or if mailed by registered or certified mail addressed as follows:

Thompson Apex

505 Central Avenue

Pawtucket, Rhode Island

Attention: Mr. Norman M. Fain

Continental Oil Company

30 Rockefeller Plaza

New York, New York

Attention: Vice President and General Manager
Petrochemicals Department

Either party may change its address at any time by notice in writing to the other.

9. No consent or waiver, expressed or implied, by Mortgagee or of any default by Mortgagor shall be construed as a consent or waiver to or of any other default.

10. In case any one or more of the provisions of this Mortgage are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

11. In the event of a default hereunder, Mortgagee shall have the statutory power of sale, as provided for in the laws of the State of Rhode Island with respect to the real property described in Schedule A, and the laws of the Commonwealth of Massachusetts with respect to the real property described in Schedules B, C and D, and with respect to the personal property mortgaged hereunder, shall have the rights afforded a Secured Party under the Uniform Commercial Code.

IN WITNESS WHEREOF, the Mortgagor has executed this Mortgage Deed and caused its corporate seal to be affixed hereto this day of , 1968.

THOMPSON APEX COMPANY

By _____

EXHIBIT D

THOMPSON APEX COMPANY
PRO FORMA
BALANCE SHEET AS AT JUNE 30, 1968

ASSETSCurrent Assets

Cash	1,850.00
Certificates of Deposit	85,000.00
Accounts and Notes Receivable	6,522,189.10
Merchandise Inventories	2,614,587.65
Other current assets	37,486.75

Total Current Assets 9,261,113.50

Fixed Assets

Property Plant & Equipment	13,032,777.00	
Less Accumulated Depreciation	2,697,449.00	
		10,335,328.00

Total Assets 19,596,441.50

LIABILITIES AND STOCKHOLDERS EQUITYCurrent Liabilities

Accounts Payable - Trade	1,136,600.36
Other accrued taxes	261,501.68
Other accrued liabilities	848,668.05

Total Current Liabilities 2,246,770.09

Stockholders Equity

Capital Stock	1,000.00
Capital Surplus	17,348,681.91
Retained Earnings	(10.50)

Total Stockholders Equity 17,349,671.41

Total Liabilities and Stockholders Equity 19,596,441.50

FINISHED GOODS INVENTORY UNIT PRICESPlasticizers

<u>Type</u>	<u>Cost</u>
DOP	\$.1046
DIOP	.1023
147	.1883
148	.1960
DDP	.1560
NODP	.1932
DTDP	.2265
141	.1956
102	.1918
175	.3282
185	.3546
DOA	.1907
DDA	.1786
200	.2202
FP3A	.2502
FP27	.2436
FP55	.2808
FP58	.2241
DHP	.1835
E64	.2698
E68	.2740
300	.2445
E54	.2390
301	.2529
XP-1122 (431)	.2570
XP-1143 (302)	.2313
XP-1144 (421)	.2400
XP-1167 (451)	.2869
XP-1171 (471)	.3504
Lauryl Chloride	.3948
Lauryl Peroxide	.8301

SCHEDULE A
THOMPSON APEX INSURANCE POLICIES

FIRST POLICY

Fireman's Mutual Insurance Company, Policy No. 25050

Coverage:

Schedule A - Property Damage

<u>Coverage Location</u>	<u>Amount</u>	<u>Rate</u>
Hebronville, Massachusetts	\$2,000,000	.647
Pawtucket, Rhode Island	1,508,000	.44
Pawtucket, Rhode Island	20,000	2.50
Pawtucket, Rhode Island	5,565,000	.38
Wilmington, Massachusetts	160,000	.542
Shaler Park, Illinois	350,000	3.75
Endicott, New York	55,000	.466
Mountain View, Georgia	100,000	1.35
Wilmington, California	25,000	1.59
Dallas, Texas	50,000	1.59
Detroit, Michigan	50,000	1.59

Schedule A - Item No. 2

Various locations	25,000	2.25
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Schedule A - Item No. 3

Various locations	225,000	.40
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Schedule B - Item No. 1

Business Interruption Coverage

Hebronville, Massachusetts	500,000	.388
Pawtucket, Rhode Island	500,000	.264
Pawtucket, Rhode Island	1,000,000	.228

Schedule B - Item No. 1A

Various locations	10,000	1.614
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Schedule C

Boiler and Machinery - Property Damage

Amount: Limit of Policy, No rate; Premium: \$1,226

Schedule D

Boiler and Machinery - Business Interruption

Amount: Limit of Policy; No rate; Premium: \$2,124

Total coverage under policy: \$31,093,000

SCHEDULE A (cont'd)

SECOND POLICY

Insurance Company of North America, Policy no. ABN57400

Coverage

Traveling accident policy covering employees of Thompson Apex traveling on company business.

Limit of Coverage: \$100,000 per employee

SCHEDULE A (cont'd)

LAND, PLANT, PROPERTY, BUILDINGS, MACHINERY AND EQUIPMENT
OWNED BY THOMPSON APEX

1. Land:

All that land as indexed and described in the document entitled, "Rhode Island and Massachusetts Real Estate Owned by Continental Oil Company as of January 1, 1968," which has heretofore been delivered to PURCHASER.

2. Plant, Property, Buildings, Machinery and Equipment:

All that plant, property, buildings, machinery and equipment set forth in the appraisal by the Lloyd-Thomas Company dated March 22, 1968 relating to the facilities located at Pawtucket, Rhode Island and Hebronville and Wilmington, Massachusetts (5 vols.).

3. Franchise, Patent, Trademark and Royalty Agreements:

- a. Royalty free license to Apex Tire and Rubber Company from Rubatex Products, Inc. dated August 15, 1958 and relating to gas-expanded cellular products.
- b. License agreement dated April 29, 1960 to Apex Tire and Rubber Company from Fidelity Machine Corp., now a division of The Singer Co., relating to making articles of laminated structure and flexible tubing.
- c. An agreement between Thompson Chemical Company and Plastifay Kimya Endustrisi A.O. (a corporation of the Republic of Turkey) which was assigned to Continental Oil Company December 31, 1965. This agreement is basically a technical assistance agreement in the field of plasticizers, particularly certain phthalates, adipates, and epoxides. At Continental's option the field may be expanded.

The term of the agreement is for a period of 10 years from start-up of the Plastifay facilities.

Continental's obligations:

To supply Plastifay design and engineering of the production facility and production process with battery limits, drafts and specifications, and flow diagrams including future developments in the field of the agreement. The obligations

SCHEDULE A (cont'd)

except those relating to future developments, have been complied with. The agreement is to be exclusive for the period of the agreement.

Plastifay's obligations:

To pay royalties and submit samples of product for periodic testing.

A conjunct trademark agreement grants Plastifay the right to use the trademark "TRUFLEX" in conjunction with plasticizers manufactured under the Technical Assistance Agreement. This grant is exclusive within Turkey and grants no right to use the trademark on products shipped outside Turkey. This agreement terminates with the first agreement.

SCHEDULE A (cont'd)

LIST OF THOMPSON APEX RETIREMENT PLANS

1. Retirement Plan of Thompson Apex Company for Salaried Employees, Approved by Board of Directors Resolution of August 24, 1965, as amended, to become effective as of January 1, 1965.
2. Prior Service Retirement Plan for Hourly and Salaried Employees and Future Service Plan for Hourly Employees of Thompson Apex Company, Approved by Board of Directors Resolution of August 24, 1965, as amended, to become effective as of January 1, 1965.

SCHEDULE A (Cont'd)

OFFICERS & DIRECTORS

THOMPSON APEX COMPANY

Directors

J. E. Kircher, Chairman
Gordon A. Cain
Norman M. Fain
R. W. Gerwig
G. H. Hagle

Officers

Norman M. Fain
Victor J. Baxt
Joseph Fath
Herbert Malin
B. J. Bernhardt
Markus Royen
Roy M. Mays
John D. Morrow
Glen E. Downing
J. L. Johnston
P. J. Dominic
Margaret Elwein

President
Executive Vice President
Vice President
Vice President
Vice President
Vice President
Vice President
Treasurer
Secretary, Controller, Asst. Treasurer
Asst. Secretary & Asst. Treasurer
Assistant Secretary
Assistant Secretary

SCHEDULE A (Cont'd)

VEHICLES

Tractors

1 - 1962 Mack
2 - 1963 Mack
2 - 1965 Mack
2 - 1966 Mack
2 - 1967 Mack

Trailers

1 - 1947 Highway
1 - 1949 Gray M
4 - 1956 V & W
1 - 1957 V & W
2 - 1958 V & W
2 - 1959 V & W
2 - 1967 Trailmobile

Dry Bulk Tanks

1 - 1965 Butler

Trucks

1 - 1966 Dodge Panel
1 - 1966 Chevrolet 1/2 Ton

Tank Trailers

1 - 1942 Quaker
1 - 1959 Quaker
1 - 1965 Trailmobile

Automobiles

1 - 1965 Chrysler
1 - 1966 Chevrolet
1 - 1966 Plymouth
2 - 1967 Chevrolet
1 - 1967 Plymouth
1 - 1967 Lincoln Continent
1 - 1967 Buick
1 - 1968 Plymouth

SCHEDULE A (cont'd)

BANK ACCOUNTS AND AUTHORIZED SIGNATORIES

1. Dispersing Account
First National Bank and Trust Company, Ponca City, Oklahoma
No. 8-122-240
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.
2. Cash Receipts
Rhode Island Hospital Trust Company
No. 425-777
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.
3. Payroll Account
Rhode Island Hospital Trust Company
No. 429-555
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.

CERTIFICATES OF DEPOSIT - NON-INTEREST BEARING

Rhode Island Hospital Trust
Providence, Rhode Island

RE Payroll Account	CD #10978*	due 9/5/68	\$ 85,000
RE Deposit Account	CD #13797**		150,000

*In name of Continental Oil Company

**While this CD has reached maturity, we have not asked for the return of funds.

SCHEDULE A (cont'd)

Patents, Applications, Inventions, Trademarks,
Technical Information to be Assigned Thompson Apex Company
(Subject to the provisions of paragraph 6.7 of the Agreement)

Patents: (foreign equivalents are serial number unless otherwise designated)

Design 82,641 (11/16/64) - Weinberg, "Design Sheet for Shoe Soles and the Like"

U.S. 3,072,591 - Fath, "Mixed Esters of Trimethylol-alkane and Vinylchloride Resin Plasticized Therewith"

U.S. 3,270,063 - Fath, "Method of Making Primary Mercaptans"

Foreign Equivalents:

Australia 766/66 (1/24/66)

Belgium Patent 692,509 (3/15/67)

Great Britain Patent 1,060,898 (6/28/67)

Canada 950,253 (1/20/66)

France Patent 1,468,193 (12/26/66)

West German P 1568 334.8

Italy Patent 782,575

Japan 4,272/66 (1/26/66)

U.S. 3,085,678 - Fath, "Esters of Dicarboxylic Acids and Vinylchloride Resins Plasticized Therewith"

Foreign Equivalents:

Canada Patent 687,696

British Patent 919,809

U.S. 3,142,171 - Royen, "Apparatus for Performing Accelerated Aging Test on Elastomers"

Foreign Equivalents:

Canada Patent 689,801

British Patent 933,901

West German Patent 1,185,842

SCHEDULE A (cont'd)

Applications:

Serial No. 605,612 (12/29/67 - Fath, Chartier,
"Vinyl Tile Composition"

Foreign Equivalents:

Great Britain 54,650/67 (11/30/67)
Canada 006,640 (12/2/67)
France 134, 183 (12/28/67)
West German C 44,237 (12/23/67)
Holland 67.17,511 (12/21/67)
Ireland 1467/67 (12/4/67)
Italy 41,340 A/67 (12/11/67)
Japan 84,628/67 (12/28/67)
Luxembourg Patent 55,172 (3/8/68)

Serial No. 568,061 (7/26/66) - Fath and Deardorff,
"Poly (Organotin) Mercaptide Polymers and Resins
Stabilized Therewith"

Foreign Equivalents:

Great Britain 32,7641/67 (7/17/67)
Canada 996,269 (7/25/67)
France 115,763 (7/26/67)
Holland 67.10,306 (7/26/67)
Italy 38,356 A/67 (7/22/67)
West German P 1643 786.8 (7/25/67)

Serial No. 548,860 (5/10/66) - Schwab,
"Epoxy Stabilizers in Poly (Vinylchloride)"

Application reserving an irrevocable, nonexclusive, nontrans-
ferable, royalty free, worldwide license to use in polymeriza-
tion process to Thompson Apex Company:

Serial No. 729,451 (5/15/68) - Deardorff, Chesler
and Fath, "Novel Diacyl Peroxides" (no foreign
filing)

U.S. Trademarks

<u>Mark</u>	<u>Reg. No.</u> <u>(If Registered)</u>	<u>Date</u>	<u>Description of Product</u>
A-100			Tread rubber
A-110			Tread rubber
A-160			Tread rubber
Apex	443,037	7/5/49 (Class 35)	Tires and tubes
Apex and Eagle Design			House mark as well as Apex alone
Childs Head	675,413	3/17/59 (Class 6)	Antifreeze
Diamond Eagle			Tread rubber
Gold Eagle			Tread rubber

SCHEDULE A (cont'd)

U.S. Trademarks (cont'd)

<u>Mark</u>	<u>Reg. No.</u> <u>(If Registered)</u>	<u>Date</u>	<u>Description of Product</u>
Regal Eagle			Tread rubber
Duralite			Shoe sole material
Eskimo	585,680	2/16/54 (Class 6)	Antifreeze
Faciflex			Garden hose
Glyco-Lene	257,186	5/28/29 (Class 6)	Antifreeze
Glylene	257,107	5/28/29 (Class 6)	Antifreeze
Gly-O-Lene	257,187	5/28/29 (Class 6)	Antifreeze
Golden Arch	763,563	1/24/64 (Class 39)	Shoe sole units
Grip Rib	745,003	2/12/63 (Class 1)	Shoe soling material
Instex			Paint or pigment dispersent
Natural Drag			Tread rubber
Pacer			Tread rubber
Premium Plus			Tread rubber
Sioxol	654,021	11/5/57 (Class 15)	Lubricant for Camelback
Sol-Tex	554,611	2/12/52 (Class 50)	Synthetic copolymer
Stop-Skid	Supp. Reg. 834,497	8/29/67 (Class 35)	Tread rubber
Superlite	579,833	9/8/53 (Class 35)	Garden hose
Tip-Top	846,896	4/2/68 (Class 6)	Freezeproof mixture, alcohol
Tip-Top and Design	227,919	5/17/27 (Class 6)	Freezeproof mixture alcohol
Tombro	545,533	7/24/51 (Class 52)	Cleaner for Carpets, etc.
Truflex	782,260	12/29/64 (Class 6)	Plasticizer
Trulite	603,612	3/22/55 (Class 35)	Garden hose
Truox	852,127	(Class 5)	Lauroyl peroxide
Unicure	806,945	4/12/66 (Class 35)	Tread rubber
Vitalized Mileage Master		JULY 9, 1968.	Tread rubber
TA IN DIAMOND DESIGN			GENERAL HOUSEMARK

ADD TRUOX
ASSIGNMENT
(ONLY REGISTERED
ED LISTED)

SCHEDULE A (Cont'd)

Foreign Trademarks and Trade Names

<u>Mark</u>	<u>Year</u>	<u>No.</u>
Apex (Belgian Congo)	1963	6,324
Duralite (Belgian Congo)	1963	6,323
Apex (Belgium)	1963	86,817
Duralite (Belgium)	1963	86,816
Apex Tire and Rubber Co. (Venezuela)	1960	4,257-D
Duralite (Venezuela)	1958	3,369-F
Faciflex (Venezuela)	1958	3,368-F
Apex (Venezuela)	1958	3,367-F
Apex and Design (Great Britain)	9/7/60	810,427
Duralite (Great Britain)	9/7/60	810,425

Foreign Trademarks Being Handled by Associates

<u>Mark</u>	<u>Country</u>	<u>Associate</u>
Apex	Dominican Republic	Cleveland
Apex and Eagle Design	Dominican Republic	Cleveland
Diamond Eagle	Dominican Republic	Octrooibureau
Gold Eagle	Dominican Republic	Octrooibureau
Regal Eagle	Dominican Republic	Octrooibureau
Apex	El Salvador	Cleveland
Apex and Eagle Design	El Salvador	Cleveland
Diamond Eagle	El Salvador	Octrooibureau
Regal Eagle	El Salvador	Octrooibureau
Gold Eagle	El Salvador	Octrooibureau
Apex and Eagle Design	Burundi	Baker-McKenzie
Apex and Eagle Design	Rwanda	Baker-McKenzie
Apex and Eagle Design	Belgian Congo	Baker-McKenzie
Truflex	Turkey	Baker-McKenzie

Technical Information and Know-How

Copies of all reports, drawings, blueprints, operating data, procedures, etc., relating to the Hebronville, Mass., and Pawtucket, R.I., facilities possessed by Continental at the time of transfer will be given Thompson Apex Company. Know-how to be assigned to Thompson Apex Company includes, but is not limited to, the information disclosed in the foregoing documents.

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
NATURAL PREMIUM (CRUDE)	TREAD RUBBER
DIAMOND EAGLE - POLYBUTADIENE	TREAD RUBBER
STOP SKID (ABRASIVE)	TREAD RUBBER
PREMIUM PLUS A-160	TREAD RUBBER
DIAMOND EAGLE A-140	TREAD RUBBER
REGAL EAGLE A-110	TREAD RUBBER
STOP SKID A-105AB	TREAD RUBBER
GOLD EAGLE A-100	TREAD RUBBER
PACER A-90	TREAD RUBBER
PREMIUM ABRASIVE	TREAD RUBBER
CORONET	GARDEN HOSE
SUPERFLEX	GARDEN HOSE
TRITON	GARDEN HOSE
AP PRE-FIT SOLES	SHOE MATERIALS
A-FLEX	SHOE MATERIALS
ASTRO-FLEX	SHOE MATERIALS
ASTRO-LITE	SHOE MATERIALS
AVANTI NO. 1	SHOE MATERIALS
AVANTI NO. 2	SHOE MATERIALS
AVANTI PRE-FIT SOLES	SHOE MATERIALS
BUFFALO	SHOE MATERIALS
CRADDOCREPE	SHOE MATERIALS
ELITE	SHOE MATERIALS

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
ENGLISH RIB	SHOE MATERIALS
GRIP-RIB	SHOE MATERIALS
GRIP-RIB III	SHOE MATERIALS
HYDA	SHOE MATERIALS
KIKI	SHOE MATERIALS
LETHAPEX	SHOE MATERIALS
MALAYA PASSOVER	SHOE MATERIALS
NITRIVYN	SHOE MATERIALS
PLAZA	SHOE MATERIALS
PLUME	SHOE MATERIALS
PLUME II	SHOE MATERIALS
RIB-TIDE	SHOE MATERIALS
RIO	SHOE MATERIALS
RIVIERA	SHOE MATERIALS
ROMA PRE-FIT SOLES	SHOE MATERIALS
SAFARI	SHOE MATERIALS
SASSY	SHOE MATERIALS
SLIM RIB	SHOE MATERIALS
SNO-TRED	SHOE MATERIALS
SUPERPEX	SHOE MATERIALS
SUPERTUF	SHOE MATERIALS
SUPERVYN	SHOE MATERIALS
TR. PREFIT SOLE	SHOE MATERIALS

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
TREVI	SHOE MATERIALS
TUMBLETILE	SHOE MATERIALS
TUMBLETILE III	SHOE MATERIALS
ULTRAPEX	SHOE MATERIALS
UNTRAVYN	SHOE MATERIALS
VYNAPEX	SHOE MATERIALS
WELTAPEX	SHOE MATERIALS

(None recorded as registered with Federal Government)

EXHIBIT I

GARDEN HOSE SALES AGREEMENT

AGREEMENT entered into the day of , 1968
by and between CONOCO Plastics, a division of Continental Oil
Company, with an operating office at 2045 Warrensville Center
Road, Cleveland, Ohio 44122 ("SELLER"), and Thompson Apex
Company, with an operating office at 505 Central Avenue, Pawtucket,
Rhode Island, 02862 ("BUYER").

WHEREAS, SELLER has a plant at Aberdeen, Mississippi,
for the production of garden hose and BUYER wishes to purchase
such plant's entire output of garden hose, it is agreed between
BUYER and SELLER as follows:

SECTION 1

QUANTITY

SELLER grants BUYER the right to purchase the entire
output of garden hose from SELLER's Aberdeen plant. The
capacity of this plant is estimated to be 1,750,000 pieces of
garden and/or sprinkler hose a year. BUYER agrees to buy not
less than 75% of said plant's capacity output of garden hose
each contract year. BUYER further agrees that the product mix
of the types of hose purchased will be essentially the same as
that now being sold, as shown in Exhibit I.

SECTION 2

QUALITY

The garden hose being delivered shall be the quality
and meet the specifications of the hose delivered by the Aberdeen
plant during the period August 1, 1967 to date of this Agreement.

SECTION 3

PRICE

The F.O.B. SELLER's plant prices for the different types of garden hose shall be as listed in Exhibit I. Exhibit II shows the cost of the different elements of the production of hose used in arriving at the price in Exhibit I. If BUYER requires any different specifications or packaging, the hose prices shall be adjusted upward or downward, above or below the cost shown in Exhibit II, by the amount of the cost of the change. The cost of any adjustments for defective hose in excess of 1.2% of the value of shipments shall be charged to SELLER.

SECTION 4

TERMS

SELLER shall bill BUYER for hose as it is shipped. Payment shall be net ten days.

SECTION 5

STORAGE

SELLER agrees to provide storage in Aberdeen for a maximum of 100,000 lengths of hose. SELLER will receive, store and load rubber garden hose for BUYER as it is presently doing at no cost to BUYER.

SECTION 6

SCHEDULE

BUYER will provide SELLER with a schedule of its requirements of garden hose for a period of at least thirty days in advance, giving the necessary information on types so

that SELLER can operate its plant at a minimum of 75% of capacity. Any changes in this schedule shall be given the BUYER at least seven days in advance.

SECTION 1
DEFINITIONS

SUPPLY OF LABELS AND FITTINGS

BUYER may on due notice to SELLER provide labels and fittings. If BUYER provides such labels and fittings, they will be billed to SELLER at a price corresponding to the costs used for these items in Exhibit II. The delivery of these labels and fittings will be such as to permit the production schedules required by BUYER.

SECTION 2

INVENTORIES

SELLER will maintain records of the inventories of hose stored for BUYER's account and provide weekly and monthly summaries of these inventories as required. SELLER will ship hose as directed by BUYER and SELLER will give BUYER daily all pertinent shipping information. Within ten days of receipt of SELLER's invoice, BUYER will reimburse SELLER for any prepaid freight charges paid by SELLER on BUYER's behalf.

SECTION 3

TERM

This Agreement shall commence on August 1, 1968 and continue to August 1, 1970 and thereafter from August 1 to August 1 of each successive year until terminated by either

party by prior written notice given at least one year prior to the August 1 date starting the last contract year.

SECTION 10

FORCE MAJEURE

Neither party shall be liable to the other for failure or delay in making or accepting deliveries hereunder to the extent that such failure or delay is due to war, fire, flood, strike, labor trouble, accident, riot, act of governmental authority, act of God, or other contingencies beyond the control of the affected party which interfere with production, supply or transportation of the material covered by this Agreement or with the supply of any raw material used in connection therewith, provided that in no event shall BUYER be relieved of the obligation to pay in full for material delivered hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

CONTINENTAL OIL COMPANY

By _____

THOMPSON APEX COMPANY

By _____

EXHIBIT #1

Hose Code Part #	Price	Production (Pcs) -- 7/1/67 - 6/30/68	Total Value \$
9565-25	.82	460	\$375
-50	1.30	39,785	51,597
-75	1.75	306	534
-100	2.24	90	201
9541-50	1.47	-	-
9501-50	2.31	8,018	18,522
-75	3.26	582	1,897
-100	4.24	318	1,348
9500-50	1.71	895	1,530
8565-25	.71	3,740	2,641
-50	1.10	202,475	221,811
-75	1.48	12,341	18,299
-100	1.87	720	1,343
8541-50	1.15	5,380	6,204
8501-5	.29	30,600	9,027
-25	1.09	2,320	2,523
-50	1.84	50,829	93,449
-75	2.59	4,734	12,249
-100	3.33	288	959
8500-50	1.48	32,470	48,208
7565-60	.90	63,170	56,802
-75	1.05	7,087	7,426
-50	.80	467,231	373,177
-25	.53	7,565	4,036
7541-50	.86	17,980	15,405
7501-50	1.34	95,013	126,927
-60	1.53	8,290	12,691
-75	1.83	2,455	4,480
-25	.84	1,150	964
7500-50	1.17	53,205	62,058
5565-25	.51	3,000	1,529
-50	.76	102,165	77,553
-75	.99	200	198
4565-25	.47	11,350	5,325
-50	.68	410,620	278,359
-60	.73	23,425	17,148
6548-25	.51	800	407
-50	.76	2,165	1,643
23-25	.76	26,925	20,357
-50	1.03	50,600	52,407
		1,751,514 pcs.	\$1,612,392

EXHIBIT II
CONOCO GARDEN HOSE
STANDARD COSTS
MAY - 1968

HOSE CODE	CORE RAW MATERIAL	JACKET RAW MATERIAL	FITTINGS R/M COST	BRAID R/M COST	CORE EXT. COST	JACKET EXT. COST	BRAIDING COST	FINISHING COST	TOTALS	MFG. UNIT COST	TOTAL UNIT COST	THOMPSON APEX STD. COST
9565-25	28.70	9.75	23.31	--	2.33	2.33	--	10.51	76.93	.77	.79	.82
-50	57.40	19.50	23.31	--	4.66	4.66	--	12.64	122.17	1.22	1.27	1.30
-75	86.10	29.25	23.31	--	6.99	6.99	--	15.84	168.48	1.68	1.76	1.75
-100	114.80	39.00	23.31	--	9.32	9.32	--	18.85	214.60	2.15	2.24	2.24
9541-50	68.25	19.57	23.89	--	5.83	5.83	--	13.50	136.87	1.37	1.43	1.47
9501-25	58.13	14.75	23.89	6.15	2.91	1.80	9.32	10.51	127.46	1.27	1.29	1.34
-50	116.26	29.49	23.89	12.30	5.83	3.61	18.64	13.50	223.52	2.24	2.27	2.31
-75	174.38	44.24	23.89	18.45	8.74	5.41	27.96	17.21	320.28	3.20	3.25	3.26
-100	232.51	58.99	23.89	24.60	11.65	7.22	37.28	21.22	417.36	4.17	4.24	4.24
9500-50	100.20	29.49	23.89	12.30	5.13	3.61	18.64	13.50	206.76	2.07	2.11	1.71
8565-25	21.05	8.36	21.37	--	1.74	1.74	--	9.50	63.76	.64	.66	.71
-50	42.10	16.72	21.37	--	3.50	3.50	--	10.51	97.70	.98	1.01	1.10
-75	63.15	25.07	21.37	--	5.24	5.24	--	12.64	132.71	1.33	1.38	1.48
-100	84.20	33.43	21.37	--	6.99	6.99	--	15.84	168.82	1.69	1.76	1.87
8541-50	50.10	16.78	21.37	--	4.20	4.20	--	11.20	107.85	1.08	1.12	1.15
8501-5	8.36	2.51	21.37	1.23	.41	.28	1.33	4.75	40.24	.40	.41	--
-25	41.78	12.55	21.37	6.15	2.04	1.40	6.64	9.98	101.91	1.02	1.03	1.09
-50	83.56	25.10	21.37	12.30	4.08	2.80	13.28	11.20	173.69	1.74	1.76	1.84
-75	125.34	37.65	21.37	18.45	6.12	4.19	19.92	13.50	246.54	2.47	2.50	2.59
-100	167.12	50.20	21.37	24.60	8.16	5.59	26.56	17.21	320.81	3.21	3.26	3.33
8500-50	72.04	25.10	21.37	12.30	3.73	2.80	13.28	11.20	161.82	1.62	1.65	1.48
7565-60	26.04	18.28	15.01	--	2.66	2.66	--	10.51	75.16	.75	.78	.90
7565-50	21.70	15.18	15.01	--	2.21	2.21	--	9.50	65.81	.66	.68	.80
-60	26.04	18.22	15.01	--	2.66	2.66	--	10.51	75.10	.75	.78	.90
7565-25	11.18	6.97	15.01	--	.93	.93	--	8.61	43.63	.44	.45	.53
-50	22.35	13.93	15.01	--	1.86	1.86	--	9.50	64.51	.65	.67	.80
-60	26.82	16.72	15.01	--	2.24	2.24	--	10.51	73.54	.74	.77	.90
-75	33.53	20.90	15.01	--	2.80	2.80	--	11.88	86.92	.87	.91	1.05
7541-50	28.71	13.98	15.01	--	2.45	2.45	--	9.50	72.10	.72	.75	.86
7501-50	46.02	21.82	20.52	10.25	2.45	2.33	11.65	9.98	125.02	1.25	1.28	1.34
-60	55.22	26.19	20.52	12.30	2.94	2.80	13.98	11.20	145.15	1.45	1.48	1.53

EXHIBIT II
CONOCO GARDEN HOSE
STANDARD COSTS
MAY - 1968

HOSE CODE	CORE RAW MATERIAL	JACKET RAW MATERIAL	FITTINGS R/M COST	BRAID R/M COST	CORE EXT. COST	JACKET EXT. COST	BRAIDING COST	FINISHING COST	TOTALS	MFG. UNIT COST	TOTAL UNIT COST	THOMPSON APEX STD. COST
7501-25	23.01	10.04	20.52	5.13	1.22	1.17	5.83	9.06	75.98	.76	.78	.84
-50	46.02	20.08	20.52	10.25	2.45	2.33	11.65	9.98	123.28	1.23	1.26	1.34
-75	69.03	30.12	20.52	15.38	3.67	3.50	17.48	12.64	172.34	1.72	1.76	1.83
7500-25	19.84	10.04	20.52	5.13	1.11	1.17	5.83	9.06	72.70	.73	.75	.75
-50	36.67	20.08	20.52	10.25	2.21	2.33	11.65	9.98	116.69	1.17	1.19	1.17
-75	59.51	30.12	20.52	15.38	3.32	3.50	17.48	12.64	162.47	1.62	1.66	1.57
5565-25	9.73	5.92	14.69	--	.82	.82	--	8.24	40.22	.40	.41	.51
-50	19.45	11.84	14.69	--	1.63	1.63	--	9.06	58.30	.58	.61	.76
-75	29.18	17.76	14.69	--	2.45	2.45	--	11.20	77.73	.78	.81	.99
4565-25	6.05	4.88	14.69	--	.70	.70	--	7.28	34.30	.34	.35	.47
-50	12.10	9.75	14.69	--	1.40	1.40	--	8.61	47.95	.48	.50	.68
23-25	20.61	--	26.96	--	1.34	--	--	12.64	61.55	.62	.63	.76
-50	41.22	--	26.96	--	2.68	--	--	14.67	85.53	.86	.88	1.03

Stamp

Stamped

September 12, 1968

Addressed to

Mr. Gordon A. Cain,
Vice President
Continental Oil Company
50 Rockefeller Plaza
New York, New York 10020

RE: Continental Oil Company et al
Docket Number C1270

Dear Mr. Cain:

The Commission has approved Elmgrove Corporation and Olin Mathieson Chemical Corporation as purchasers of the Thompson-Apex businesses (acquired from Thompson Chemical Corporation and Apex Tire and Rubber Company) pursuant to the terms and conditions of the purchase agreements forwarded with your letter of July 26, 1968, and in accordance with the provisions of the order issued in the above-referenced matter on November 21, 1967, subject to the following conditions:

1. That the Olin Mathieson Chemical Corporation's capital shares received by Continental Oil in part payment for the portion of the above business purchased by Olin shall not be voted while owned by Continental Oil Company.
2. That Continental Oil will specifically agree to the above specification in writing within ten (10) days of the receipt of this communication.

The Commission has entirely relied upon the information submitted by Continental Oil and its approval is conditioned upon this information being accurate and complete.

By direction of the Commission.

Joseph W. Shea,
Secretary

Appendix E

RESPONSE FOR 10(i):

Since any liabilities associated with the Rhode Island incorporated Apex Tire & Rubber Company naturally acceded to Continental Oil Company, and since Elmgrove purchased a separate and distinct Apex Tire & Rubber Company, incorporated in Delaware, which did not have any liabilities attached to it at the time of purchase, Teknor Apex Company is not the successor to any liabilities, including those under CERCLA, of the Apex Tire & Rubber Company.

The Rhode Island incorporated Apex Tire & Rubber Company was acquired by Continental Oil Company ("Continental") as part of the 1964 transaction described in No. 10(h) above (See *1964 Purchase Agreement*, **Exhibit A**). The arrangement for Apex Tire & Rubber Company (Rhode Island) was similar to that of Thompson Chemical Company in that Continental purchased Apex Tire & Rubber Company (Rhode Island) and then liquidated and dissolved it (See *November 30, 1964 Minutes of the Special Meeting of the Board of Directors*, **Exhibit B**). Thereafter, Continental assumed all the obligations of Apex Tire & Rubber Company (Rhode Island) and operated the business as a going concern (See **Exhibit B** and *November 17, 1964 Plan of Liquidation*, **Exhibit C**).

Apex Tire & Rubber Company, a Delaware company, was incorporated as a separate and distinct company in Delaware on December 11, 1964 by "A.D. Atwell," "F.J. Obara, Jr.," and "A.D. Grier." See *Certificate of Incorporation*, **Exhibit D**. Continental Oil was the sole stockholder of it. Elmgrove Corporation purchased the Delaware incorporated Apex Tire & Rubber Company as part of the 1968 transaction (described in detail above in 10(h))(See *1968 Purchase Agreement*, pg. 28, **Exhibit E**).

Elmgrove could not have acquired any of the liabilities associated with Rhode Island incorporated Apex Tire & Rubber Company by its purchase of the Delaware incorporated Apex Tire & Rubber Company. The analysis here is similar to the rationale described in 10(h) above in relation to Elmgrove's purchase of Thompson Apex, Delaware. Continental purchased Apex Tire & Rubber Company (Rhode Island) outright, and then liquidated and dissolved it. Liquidation means the end of a corporation's existence,¹ so whatever liabilities were created by Apex Tire & Rubber Company (Rhode Island), naturally transferred to Continental. Pursuant to Continental's liquidation and dissolution of Apex Tire & Rubber Company (Rhode Island), Continental emerged as the sole owner of Apex Tire & Rubber Company (Rhode Island) and its assets, rights, properties, contracts, liabilities, and business, "as a going concern" (See **Exhibit B**). Thus, Continental naturally acceded to any Apex Tire & Rubber Company's (Rhode Island) liabilities as a result of purchasing, liquidating, and dissolving it. Thereafter, the burden of shifting any of those liabilities rested with Continental, and the evidence demonstrates that it failed to do so.

Continental could have separately transferred any of its Apex Tire & Rubber Company (Rhode Island) liabilities to Elmgrove Corporation through the July 24, 1968 stock purchase agreement. It did not (See **Exhibit E**). It would have been easy for

¹ *Maytag Corp. v. Navistar International Transportation Corp.*, 219 F.3d 587 (7th Cir. 2000).

Continental to transfer any of its Apex Tire & Rubber Company (Rhode Island) liabilities into the newly formed Apex Tire & Rubber Company (Delaware), as it was formed prior to Continental's ultimate liquidation and dissolution of Apex Tire & Rubber Company (Rhode Island), and existed as a Continental entity. Yet, there is no evidence, documentation, or paperwork demonstrating that Continental shifted any liabilities into Apex Tire & Rubber Company (Delaware). Elmgrove Corporation, therefore, through its purchase of the stock of Apex Tire & Rubber Company (Delaware), could not have assumed any such Continental liabilities.

Apex Tire & Rubber Company (Delaware) has remained inactive since Elmgrove's purchase of it in 1968.

SALES AGREEMENT

THIS AGREEMENT, dated as of September 18, 1964, between NORMAN M. FAIN, M. EDGAR FAIN and IRVING J. FAIN, residents of Providence, Rhode Island, and the other individuals and fiduciaries who are stockholders of Thompson Chemical Company, a Rhode Island corporation (herein sometimes called "Thompson"), Apex Tire & Rubber Co., a Rhode Island corporation (herein sometimes called "Apex") and Monroe Manufacturing Company, a Mississippi corporation (herein sometimes called "Monroe"), said Norman M. Fain, M. Edgar Fain, Irving J. Fain and such other individuals and fiduciaries being herein collectively referred to as "Stockholders" or individually referred to as "Stockholder", and CONTINENTAL OIL COMPANY, a Delaware corporation (herein called "Continental"),

W I T N E S S E T H :

WHEREAS, Stockholders own all of the issued and outstanding capital stock of Thompson, Apex and Monroe which together with Turner Warehouse Company, a Massachusetts Business Trust (herein sometimes called "Turner"), all of whose issued and outstanding units of beneficial interest are owned by Apex, are herein collectively called the "Thompson Companies"; and

Exhibit A

WHEREAS, certain of the Stockholders own all of the issued and outstanding stock of Hay Realty Corporation, a Rhode Island corporation (herein called "Hay Realty") which has adopted a plan of complete liquidation and desires to sell certain real property owned by it; and

WHEREAS, Continental desires to purchase all of the issued and outstanding shares of capital stock of Thompson, Apex and Monroe, to acquire that real estate which is owned by Hay Realty and is utilized by the Thompson Companies, and to acquire indirectly through Apex all of the issued and outstanding units of beneficial interest of Turner.

NOW, THEREFORE, in consideration of the premises and the respective agreements hereinafter set forth, Stockholders and Continental hereby agree as follows:

1. Sale and Transfer of Capital Stock and Related Transactions

- (a) Stockholders will sell, convey, transfer and deliver to Continental at the Closing (as hereinafter defined) all of the issued and outstanding shares of capital stock of Thompson, Apex and Monroe, free and clear of all liens, claims or encumbrances, and Stockholders will deliver to Continental at the Closing certificates representing all said shares, duly endorsed in blank or accompanied by appropriate

stock powers duly executed in blank, and having all necessary transfer tax stamps affixed and cancelled.

- (b) At the Closing, Stockholders will cause Hay Realty to sell, convey, transfer and deliver to Continental by quitclaim deed (with quitclaim covenants) with all applicable documentary stamps affixed, the real estate described in Exhibit A, together with all improvements, fixtures and appurtenances thereto, and an appropriate bill of sale transferring to Continental all items of personal property owned by Hay Realty and utilized by or for the benefit of any of the Thompson Companies.

2. Consideration for Stock Sale and Transfer

The consideration for such sale, conveyance, transfer and delivery shall be:

(a) \$30,000,000 (subject to increase or reduction as provided in this Agreement), \$8,699,000 of which is to be paid at the Closing referred to in Section 4 below and the balance of which is to be paid in instalments in the amounts and on the dates specified below (herein called "Instalments"):

No. 1	\$3,043,000	First Anniversary of Closing Date
No. 2	3,043,000	Second Anniversary of Closing Date
No. 3	3,043,000	Third Anniversary of Closing Date

No. 4 \$3,043,000 Fourth Anniversary of Closing Date

No. 5 3,043,000 Fifth Anniversary of Closing Date

No. 6 3,043,000 Sixth Anniversary of Closing Date

No. 7 3,043,000 Seventh Anniversary of Closing Date

The down payment of \$8,699,000 and the Instalments are to be paid by checks drawn on federal funds to the order of Norman M. Fain, M. Edgar Fain and Irving J. Fain, as agents for the Stockholders (herein, in said representative capacity, being called the "Stockholders' Committee"). Checks for all Instalments will be delivered at the office of Continental in New York City or at such other place as shall be mutually agreed upon by Continental and the Stockholders' Committee.

Subject to the provisions set forth below with regard to adjustments of Instalments, interest on all Instalments shall accrue at the rate of 4-1/2% per annum from the Closing Date and shall be payable semi-annually commencing six months after the Closing Date; provided, however, that interest for the first six months following the Closing Date shall be paid in two equal instalments, the first to be paid three months after the Closing Date and the second to be paid six months after the Closing Date.

In the event that the amounts of Instalments numbered 5 or 6 are adjusted as provided in Section 6(j) hereof, interest on such instalments shall thereafter be

computed on the adjusted amounts of such Instalments.

Whether or not the amounts of such instalments are adjusted as aforesaid, to the extent that the payments (and interest-free advances against future payments) received between May 31, 1964 and January 1, 1965 by the Thompson Companies and by Continental with respect to the Hebronville fire insurance claims referred to in Section 6(j) hereof are less than those specified in said Section 6(j), then the unpaid portion of such claims shall bear interest at the rate of 4-1/2% per annum from July 1, 1965 until the date of actual payment, and Continental shall have the right to credit the amount of such interest against its own interest obligations next falling due on Instalments 5 or 6.

If the amount of any of the Instalments shall be adjusted pursuant to any provision of this Agreement other than Section 6(j), interest on such Instalment or Instalments shall thereafter be computed on the adjusted amount thereof, the effective date of such interest adjustments to be determined as follows:

(i) If the adjustment to the Instalment is occasioned because of an out-of-pocket payment by Continental with respect to which there is a representation, warranty, covenant or agreement by Stockholders in this Agreement, the interest adjustment shall be made effective from the date of such payment by Continental; and

(ii) On all other adjustments of Instalments, the interest adjustment shall be made effective from the date when the deficiency or other basis for the adjustment is discovered by Continental.

The foregoing interest payments shall be made in the manner provided above with respect to payments of Instalments. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

(b) The assumption by Continental of all debts and obligations, matured or unmatured, contingent or otherwise, incurred by Hay Realty (or by its former wholly owned subsidiary Palmer Corporation, a Rhode Island corporation) in connection with the construction and completion of the recently completed Apex factory building and the payment by Continental, by check delivered to Hay Realty at the Closing, of an amount equal to the excess, if any, of all funds expended for the construction or completion of such new building by Hay Realty (or by Palmer Corporation) over the amount of the outstanding loans payable by Hay Realty (or by Palmer Corporation) which were incurred for the purpose of such construction and completion. In no event shall the total of such assumption and payment exceed \$610,000. The amount of all such costs and such loans payable shall be certified as correct by Price Waterhouse & Co., independent public accountants.

(c) A contingent payment to be paid on March 1, 1969, by check drawn on federal funds to the order of the Stockholders' Committee, such contingent payment and interest thereon to be computed in accordance with the provisions of Exhibit B hereto.

3. Allocation of Purchase Price

The Stockholders' Committee shall allocate the consideration received by it from Continental pursuant to subsections (a) and (c) of Section 2 hereof to the capital stock of the Thompson Companies and the properties to be conveyed by Hay Realty on the following basis:

Thompson	55.25%
Monroe	20%
Apex	17.33%
Properties of Hay Realty	<u>7.42%</u>
Total	100%

4. Closing

The closing of the transactions provided for herein (herein called the "Closing") shall take place at the Board Room of the Rhode Island Hospital Trust Company in Providence, Rhode Island, at 10 A.M., on September 18, 1964, provided that either Continental or the Stockholders' Committee, by written notice or notices to the other from time to time, shall be entitled to postpone the Closing to a date not later than five days after such date. If due to causes

beyond the control of either Continental or the Stockholders' Committee, the Closing is not consummated on such first mentioned date or within five days thereafter, this Agreement, unless mutually extended in writing authorized by the Board of Directors or an authorized committee of Continental and the Stockholders' Committee, shall terminate without liability of any kind on the part of either Continental, Stockholders or the Stockholders' Committee. The date of the Closing is referred to in this Agreement as the Closing Date.

5. Documents to be Delivered by Stockholders at Closing

The checks provided for in Section 2 hereof and an appropriate instrument of assumption pursuant to Section 2(b) hereof will be delivered to the Stockholders' Committee against receipt by Continental of the stock certificates and deeds referred to in Section 1 hereof and the following:

(a) A certificate registered in the name of Apex representing 1,000 units of beneficial interest in Turner.

(b) Resignations effective as of the Closing Date of Daniel Jacobs as a Director (or Trustee) of Thompson, Apex and Turner and as Secretary of Turner; of William L. Mayer as a Director (or Trustee) of Apex, Thompson, Monroe and Turner; and of M. Edgar Fain and Irving J. Fain as officers of Apex, Thompson and Monroe.

(c) All stock ledger and stock transfer books, and minute books containing minutes of all meetings of the

Stockholders and Boards of Directors (or Trustees in the case of Turner), of the Thompson Companies. All books and records of the Thompson Companies shall remain the property of the respective companies, except that for a period of five years following the Closing Date, the Stockholders' Committee or its representatives shall during reasonable business hours be permitted access to, and the right to copy those portions of the books and records of the Thompson Companies existing on the date hereof, and to the extent reasonably necessary to verify the Contingent Payment referred to in Section 2(c) hereof, those portions of the books and records of the Thompson Companies relating to transactions subsequent to the date hereof.

(d) Employment agreement executed between Continental and Norman M. Fain.

(e) Opinion of Messrs. Simpson Thacher & Bartlett, special counsel to the Stockholders, dated the Closing Date, to the effect that (i) Thompson, Apex, Monroe and Hay Realty are corporations duly organized and validly existing in good standing under the laws of their respective jurisdictions of organization referred to in Section 6(a) below, that Thompson is duly qualified to do business and is in good standing in the Commonwealth of Massachusetts and the State of Mississippi and that Apex is duly qualified to do business and is in good standing in the States of

Mississippi and Texas, (ii) Turner is a Massachusetts Business Trust duly organized and validly existing and in good standing in the Commonwealth of Massachusetts, (iii) the Thompson Companies have authorized capitalizations as set forth in Section 6(a) below, (iv) each of the Stockholders has the power to execute and deliver this Agreement and to carry out his obligations hereunder, and this Agreement is a legal, valid and binding obligation of each of the Stockholders in accordance with its terms, and (v) upon the delivery by the Stockholders to Continental at the Closing of the shares of stock of Thompson, Monroe and Apex, as contemplated by this Agreement, Continental will acquire the rights to all outstanding stock of such Companies, free and clear of any liens, claims or encumbrances. In rendering the foregoing, Messrs. Simpson Thacher & Bartlett may rely on the opinion of local counsel as to matters relating to the laws of states other than New York.

(f) Opinion of Messrs. Levy, Carroll, Jacobs and Kelly, counsel to the Thompson Companies and Hay Realty, dated the Closing Date, to the effect that except as may be specified by such counsel, they do not know of any activity or activities of any of the Thompson Companies which may reasonably be expected to result in suit or threat of suit for patent, trademark or copyright infringement or for unfair trade practice, or of any litigation, proceeding or govern-

mental investigation pending or in prospect or threatened against or relating to any of the Thompson Companies or Hay Realty or their respective properties or businesses, or the transactions contemplated by this Agreement, other than litigation of the type and in the amounts referred to in Section 6(1) hereof or in the memorandum referred to therein.

(g) Certificates of good standing with respect to Apex, Thompson, Monroe and Hay Realty from their respective states of incorporation and from the jurisdictions in which they are respectively qualified to do business.

(h) Certified copies of resolutions adopted by the shareholders and the Board of Directors of Hay Realty authorizing the sale of certain of the real estate of said company to Continental as provided in Section 1(b) hereof.

(i) Legal opinions of competent counsel or title reports of recognized title companies (or other evidence in form and substance satisfactory to Continental's counsel) with regard to the respective real properties owned by the Thompson Companies and Hay Realty and a legal opinion of competent counsel to the effect that the instruments of conveyance and transfer executed by Hay Realty with regard to the real properties listed in Exhibit A hereto are valid in accordance with their terms and are effective to vest in Continental all of Hay Realty's right, title and interest in and to the properties so conveyed.

6. Representations and Warranties by Stockholders

Stockholders jointly and severally represent and warrant as follows:

(a) Thompson Companies' Organization, Capitalization, Etc.

(1) Thompson is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in the Commonwealth of Massachusetts and State of Mississippi, which constitute the only jurisdictions in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Thompson's authorized capital stock consists of (i) 1,000 shares of Common Stock without par value, of which 600 shares are validly issued and outstanding, fully paid and nonassessable, and (ii) 50 shares of Preferred Stock having a par value of \$1,000 per share, of which none is issued and outstanding.

(2) Apex is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in the States

of Mississippi and Texas, which constitute the only jurisdictions in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Apex's authorized capital stock consists of (i) 1,000 shares of Common Stock without par value, of which 862 shares are validly issued and outstanding, fully paid and nonassessable, (ii) 2,200 shares of nonvoting, noncumulative Class A Preferred Stock having a par value of \$100 per share, of which 670 shares are validly issued and outstanding, fully paid and nonassessable, and (iii) 2,400 shares of nonvoting, noncumulative Class B Preferred Stock having a par value of \$100 per share, of which 956 shares are validly issued and outstanding, fully paid and nonassessable.

(3) Turner is a Massachusetts Business Trust duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and has the power to carry on its business as it is now being conducted, and is duly qualified and in good standing in every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Turner is authorized to issue certificates representing 5,000 units of beneficial

interest, without par value, and has validly issued and outstanding a certificate or certificates representing 1,000 such units of beneficial interest which are fully paid and nonassessable and are legally and beneficially owned by Apex, free and clear of any claim, lien, charge or encumbrance and no other units of beneficial interest are issued or outstanding.

(4) Monroe is a corporation duly organized, validly existing and in good standing under the laws of the State of Mississippi and has corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary. Monroe's authorized capital stock consists of 2,000 shares of Common Stock having a par value of \$10 per share, of which all 2,000 shares are validly issued and outstanding, fully paid and non-assessable.

(5) Hay Realty is a corporation duly organized, validly existing and in good standing under the laws of the State of Rhode Island and has the corporate power to carry on its business as it is now being conducted, and is duly qualified and in good standing in

every jurisdiction in which the character and location of the properties owned or used by it or the nature of the business transacted by it make such qualification necessary; all requisite corporate or other action has been taken by Hay Realty to authorize the sale of its real estate described in Exhibit A as provided herein.

(6) The number of shares of Thompson capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holdings of Thompson stock, and no shares of Thompson stock other than those listed below are issued or outstanding. Each Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Thompson stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Norman M. Fain, Guardian of the person and estate of Alfred A. Fain	4
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	125

<u>Stockholder's Name</u>	<u>Number of Shares</u>
William L. Mayer	4
Faye Barbara Mayer	4
Lawrence F. Gates	4
Helene P. Gates	4
Faye Barbara Mayer, Trustee for David L. Mayer, under agree- ment dated January 9, 1962	2
Faye Barbara Mayer, Trustee for Ellen E. Mayer, under agree- ment dated January 9, 1962	2
Helene Gates, Trustee for Lisa S. Gates, under agreement dated May 5, 1962	4
M. Edgar Fain	101
Norman M. Fain and Lloyd D. Tarlin, Trustees of The M. Edgar Fain Irrevocable Trusts, under agreement dated Decem- ber 26, 1962	30
Norman M. Fain and Lloyd D. Tarlin, Trustees for Elliot B. Fain, under agreement dated December 26, 1962	3
Norman M. Fain and Lloyd D. Tarlin, Trustees for Richard D. Fain, under agreement dated December 26, 1962	3
Sally A. Fain Epstein and Lloyd D. Tarlin, Trustees for Sally A. Fain Epstein, under agree- ment dated December 14, 1962	6
Lawrence A. Fain and Lloyd D. Tarlin, Trustees for Lawrence A. Fain, under agreement dated December 26, 1962	6

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Irving Jay Fain	107
Evelyn Macie Fain, Norman M. Fain and Melvin Irving Bernstein, Trustees of The Irving Jay Fain Irrevocable Trusts, under agreement dated June 11, 1962	30
Evelyn Macie Fain, Trustee for Elizabeth Fain, under agree- ment dated June 11, 1962	6
Evelyn Macie Fain, Trustee for Lyle Stoneman Fain, under agreement dated June 11, 1962	6
Norman M. Fain	101
Rosalie B. Fain, Leo Bakalar and Victor J. Baxt, Trustees of The Norman M. Fain Irrevocable Trusts, under agreement dated June 11, 1962	30
Rosalie B. Fain, Trustee for Jonathan D. Fain, under agree- ment dated July 6, 1960	6
Rosalie B. Fain, Trustee for Martha A. Fain, under agreement dated July 6, 1960	6
Rosalie B. Fain, Trustee for Wendy B. Fain, under agreement dated July 6, 1960	<u>6</u>
Total	600

(7) The number of shares of Apex capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holdings of Apex stock, and no shares of Apex stock other than those listed below are issued or outstanding. Each

Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Apex stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
<u>Class A Preferred:</u>	
M. Edgar Fain	160
M. Edgar Fain, Guardian of the person and estate of Richard Fain	30
E. Macie Fain	150
Irving J. Fain	30
E. Macie Fain, Guardian of the person and estate of Elizabeth Fain	30
E. Macie Fain, Guardian of the person and estate of Lyle S. Fain	30
Norman M. Fain	150
Rosalie B. Fain, Guardian of the person and estate of Jonathan D. Fain	30

Stockholder's NameNumber of Shares[Class A Preferred - continued]

Rosalie B. Fain, Guardian of the person and estate of Wendy B. Fain	30
Rosalie B. Fain, Guardian of the person and estate of Martha A. Fain	<u>30</u>
Total	<u>670</u>

Class B Preferred:

Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	404
Irving J. Fain	184
M. Edgar Fain	184
Norman M. Fain	<u>184</u>
Total	<u>956</u>

Common Stock:

Norman M. Fain, Guardian of the person and estate of Alfred A. Fain	34
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	294
Helene P. Gates	2
Faye Mayer	2

<u>Stockholder's Name</u>	<u>Number of Shares</u>
[Common Stock - continued]	
Faye Barbara Mayer, Trustee for David L. Mayer, under agree- ment dated January 9, 1962	1
Faye Barbara Mayer, Trustee for Ellen E. Mayer, under agree- ment dated January 9, 1962	1
Helene Gates, Trustee for Lisa S. Gates, under agreement dated May 5, 1962	2
Irving J. Fain	169
E. Macie Fain	17
E. Macie Fain, Guardian of the person and estate of Lyle S. Fain	17
E. Macie Fain, Guardian of the person and estate of Elizabeth Fain	17
M. Edgar Fain	86
Norman M. Fain	169
Rosalie Fain	17
Rosalie B. Fain, Guardian of the person and estate of Wendy B. Fain	17
Rosalie B. Fain, Guardian of the person and estate of Jonathan D. Fain	<u>17</u>
Total	<u><u>862</u></u>

(8) The number of shares of Monroe capital stock listed opposite each Stockholder's name below constitutes each such Stockholder's entire holding of Monroe stock, and no shares of Monroe stock other than those listed below are issued or outstanding. Each Stockholder further represents and warrants that said Stockholder is the legal owner, free and clear of any claim, lien, charge or encumbrance, of, and has good title to, all of said shares owned by said Stockholder as set forth below, that all of said shares are validly issued, fully paid and nonassessable, and that said Stockholder has full power and authority to sell and transfer said shares of Monroe stock to Continental in accordance with this Agreement:

<u>Stockholder's Name</u>	<u>Number of Shares</u>
Selma F. Pilavin, Norman M. Fain and Daniel Jacobs, Executors under the will of Albert Pilavin, deceased	334
William L. Mayer	100
M. Edgar Fain	434
Irving Jay Fain	434
Norman M. Fain	434
Victor J. Baxt	<u>264</u>
Total	<u>2,000</u>

Except for this Agreement and the Restricted Stock Option Plan of Thompson, dated May 28, 1962, under which no options are outstanding, there are now and on the Closing Date will be no existing options, calls, or commitments of any character relating to the authorized or issued Common or Preferred Stock (units of beneficial interest in the case of Turner) of any of the Thompson Companies. None of such Companies is now obligated, or will be obligated at the Closing Date, to issue any capital stock, warrants, options, debentures, units of beneficial interest or other security of any type.

(9) The Common Stock, Preferred Stock and units of beneficial interest referred to in this Section 6 which have heretofore been issued have not been issued in violation of the Blue Sky Laws of any state or the Securities Act of 1933, as amended, or the Rules and Regulations pursuant thereto.

(10) With the exception of Apex's holdings of units of beneficial interest of Turner, none of the Thompson Companies has any subsidiary or owns any stock in any other corporation.

(b) Financial Statements and Other Data

Stockholders have delivered to Continental copies of the following financial statements, all of which are true

and complete in all material respects, have been prepared in accordance with generally accepted accounting principles applied on a basis consistent with that of the respective completed fiscal periods of the individual Thompson Companies (except as stated in the explanatory notes attached to such statements, and in the case of interim statements, except for year-end adjustments) throughout the period covered by such statements, and present fairly the financial position of the Thompson Companies included therein as at the dates, or the results of their operations for the periods covered by, such financial statements:

(1) The balance sheet of Thompson as at May 31, 1962, May 31, 1963 and May 31, 1964, and the related statements of income and retained earnings of Thompson for the twelve months ended on each of such dates (each certified by Price Waterhouse & Co., independent public accountants);

(2) The balance sheet of Apex (consolidated with its subsidiary Turner) as at December 31, 1961, December 31, 1962 and December 31, 1963, and the related statements of income and retained earnings of Apex for the twelve months ended on each of said dates.

(3) The balance sheet of Monroe as at September 30, 1962 and September 30, 1963 and the related statements of income and deficit of Monroe for the periods ended on each of such dates (each certified by Price

Waterhouse & Co.).

(4) Revised Combined Statement of Condition of Apex, Turner, Thompson and Monroe at May 31, 1964 (a copy of which is marked Exhibit C and annexed hereto, such Statement being hereinafter referred to as the "May 31, 1964 Revised Combined Statement of Condition"), prepared from and reconcilable with the books of account of the individual Thompson Companies at May 31, 1964.

(c) Absence of Certain Changes or Events

Since May 31, 1964, except as otherwise permitted by this Agreement or consented to by Continental in writing:

(1) There has not been any material and adverse change in the financial condition, assets, liabilities or business of Thompson, Apex, Monroe and Turner, considered as a whole;

(2) There has not been any declaration, setting aside or payment of any dividend or other distribution in respect of the Common Stock of Thompson, Apex or Monroe or the Preferred Stock of Apex or units of beneficial interest of Turner;

(3) There has not (except in the case of one employee) been any increase in the regular rate of compensation payable by any of the Thompson Companies to any of the officers or employees of the Thompson

Companies whose current annual salary rate aggregates \$15,000 or more from one or more of the Thompson Companies, or any increase over the amount thereof paid for the calendar year ended December 31, 1963 in any bonus, incentive compensation, service award or like benefit (hereinafter encompassed in the term bonus) authorized, granted or accrued to any such officers or employees;

(4) There has not been any hospitalization, insurance or similar benefit arrangement made or agreed to by any of the Thompson Companies;

(5) There has not been any significant labor trouble, or any other event or condition of any character (whether or not covered by insurance) which has materially and adversely affected or will so affect the properties or results of operations of any of the Thompson Companies;

(6) The Thompson Companies' business has been conducted only in ordinary course;

(7) No change has been made in the Certificate of Incorporation or Charter or By-Laws of Thompson, Apex, or Monroe or in the Declaration of Trust of Turner, nor has any of the Thompson Companies taken any action with respect to a stock split, combination of shares, reduction or increase of capital, reorgan-

ization or other modification of its capital structure, nor has Thompson, Apex, Monroe or Turner purchased any of the shares of Common Stock, Preferred Stock or units of beneficial interest previously issued by it or any other of the Thompson Companies;

(8) No changes have been made in the respective authorized and unissued Common Stocks of Thompson, Apex or Monroe, or in the authorized and unissued Preferred Stocks of Thompson or Apex, or in, or in the ownership by Apex of, the issued and outstanding units of beneficial interest in Turner, nor has any option or commitment been granted or made relating to the respective authorized Common Stocks of Thompson, Apex or Monroe, the respective authorized Preferred Stocks of Thompson or Apex, or the units of beneficial interest in Turner;

(9) The Thompson Companies have not mortgaged or pledged or agreed to mortgage or pledge any of their respective assets;

(10) No borrowing has been made by any of the Thompson Companies except short-term borrowing in the ordinary course of business, borrowing as a result of the fire at Hebronville, Massachusetts, and borrowing for construction purposes at Aberdeen, Mississippi, Pawtucket, Rhode Island and Assonet, Massachusetts;

nor has any of the Thompson Companies incurred any long-term liabilities;

(11) No change has been made in the banking and safe deposit arrangements reflected in the list referred to in Section 6(h)(9).

Continental hereby consents to the following transactions which have occurred since May 31, 1964:

(i) Palmer has conveyed without consideration to Oakland Corporation, a Rhode Island corporation, the real property described in Exhibit D attached hereto, which real property is a small tract located between the Apex office and the store owned by Apex Incorporated in Pawtucket, Rhode Island;

(ii) Apex and Thompson have conveyed to Apex Incorporated the real property described in Exhibit E attached hereto, which real property consists of certain parking lots now being used by the store owned and operated by Apex Incorporated in Pawtucket, Rhode Island, at the then book value of the real property and improvements, if any, as of August 31, 1964; and

(iii) Certain of the Stockholders have purchased from Apex at a price equal to the cash surrender value thereof, policies issued by The Equitable Life Assurance Society of the United States on the life of Alfred A. Fain.

(d) Tax Matters

The Federal income and excess profits tax returns of Apex have been audited by the Federal Internal Revenue Service (or are closed by reason of the statute of limitations) for all years to and including the calendar year ended December 31, 1962; the Federal income tax returns of Thompson have been so audited or so closed for all fiscal years to and including the fiscal year ended May 31, 1962; and the Federal income tax return of Thompson for the fiscal year ended May 31, 1963 is currently being audited. The results of all completed audits are reflected in the Thompson Companies' financial statements delivered to Continental, and all deficiencies proposed as a result of such audits have been paid and settled or are being contested in good faith. There are no agreements by any of the Thompson Companies for the extension of the time for the assessment of any tax. All assessed Federal, state, county and local taxes due and payable by any of the Thompson Companies on or before the date hereof have been paid.

(e) Accounts and Notes Receivable

The total amount of the accounts and notes receivable of the Thompson Companies stated on the May 31, 1964 Revised Combined Statement of Condition have been collected or are collectible and will be paid in full at the aggregate recorded amounts thereof less applicable reserves stated on

such Combined Statement. If any of such accounts and notes receivable shall not have been so collected prior to May 31, 1965 Continental shall have the right until November 30, 1965 to assign and transfer the same to the Stockholders' Committee and to reduce the purchase price hereunder by an amount equal to the aggregate face amount of the accounts and notes receivable so assigned, less the amount of the reserve therefor at May 31, 1964, as reflected in the aforesaid Combined Statement, by reducing the then unpaid Installments in inverse order of their respective due dates.

(f) Inventories

The inventories of the Thompson Companies stated on the May 31, 1964 Revised Combined Statement of Condition, or thereafter acquired by them, consist of items of a quality and quantity usable or salable in the normal course of the respective businesses of the Thompson Companies; the value of all items of obsolete materials and of materials of below standard quality as of May 31, 1964 was written down to realizable market value or adequate reserve provided therefor and such reductions or reserves, if any, are reflected on the aforesaid Combined Statement; and the value at which such inventories were carried at May 31, 1964 reflects the normal inventory valuation policy of the Thompson Companies of stating inventories at cost or market, whichever is lower.

(g) Title to Properties; Absence of Liens and Encumbrances, Etc.

Each of the Thompson Companies, and (as to properties being conveyed hereunder) Hay Realty, has good and marketable title to all of its properties and assets, real and personal (including those reflected on the May 31, 1964 Revised Combined Statement of Condition, except as since sold or otherwise disposed of in the ordinary course of business or as consented to by Continental in writing) free and clear of all liens and encumbrances, except as noted in Exhibit A and except for the lien of current taxes not yet due and payable, and except such imperfections of title, easements and encumbrances, if any, as are not substantial in character, amount and extent and do not materially detract from the value or interfere with the present use of the properties subject thereto or affected thereby or otherwise materially impair business operations. If Continental shall, within the period of one year following the Closing Date, discover any liens, encumbrances, easements or other defects or imperfections of title affecting the real properties located in Rhode Island, including those to be conveyed by Hay Realty (other than any mortgage relating to property described in Exhibit A hereto, with respect to which mortgage information has been delivered to Continental prior to the date hereof, and other than minor imperfections, easements or encumbrances of the character referred to in the next preceding sentence), Stockholders will, at Continental's request and at Stockholders' expense, take all

such steps as may be necessary to correct all such liens, encumbrances, easements, or other defects or imperfections of title; if for any reason such liens, encumbrances, easements, or other defects or imperfections of title cannot be corrected, Stockholders will indemnify and hold harmless Continental and each of the Thompson Companies against any and all claims, actions, losses and damages arising out of such liens, encumbrances, easements, or other defects or imperfections of title. Without limitation of the foregoing, to the extent that the then unpaid Instalments are sufficient therefor, the aforesaid losses and damages shall be offset against the unpaid Instalments by reducing such Instalments in the inverse order of their respective due dates.

All leases pursuant to which the Thompson Companies lease real or personal property are in good standing, valid and effective in accordance with their respective terms, and there is not, under any of such leases, any existing default or any event which with notice or lapse of time or both would constitute a default in respect of which the Thompson Companies have not taken adequate steps to prevent a default from occurring. Neither Hay Realty, Palmer Corporation nor any of the Thompson Companies has received notice of violation of any applicable zoning regulation, ordinance or other law, order, regulation or requirement relating to its operations or its owned or leased properties which has not been

complied with. Such of the properties and assets of the Thompson Companies as are subject to physical depreciation have been and until the Closing will be maintained in good repair and sound operating condition.

(h) Descriptions of Properties, Contracts and Other Operating Data

The Thompson Companies have delivered to Continental true and complete lists or descriptions (as of the date hereof, unless otherwise noted below) of each of the following:

(1) All real property owned, leased or otherwise utilized by any of the Thompson Companies (specifying in each instance whether the particular property is owned, leased or otherwise utilized), with sketches identifying the principal facilities located at each site.

(2) A list of all major items of machinery and equipment owned, leased or otherwise utilized by any of the Thompson Companies (specifying in each instance whether the particular property is owned, leased or otherwise utilized), showing material additions to, and eliminations from the physical assets listed in The Lloyd-Thomas Co. 1963 appraisal.

(3) All patents, patent applications, trademarks, trademark registrations and applications therefor, trade names, copyrights, and copyright registrations and applications therefor, presently owned, in whole or in

part, by any of the Thompson Companies, all of which are now current and in good standing, and which will be current and in good standing as of the Closing Date, and all patent, trademark or copyright licenses to which any one or more of them is a party.

(4) All automobiles, trucks, rolling stock or other conveyances owned, leased or otherwise utilized by the Thompson Companies as of August 31, 1964 (July 31 in the case of Apex), specifying in each instance whether the particular property is owned, leased or otherwise utilized.

(5) All policies of insurance (including fidelity bonds covering officers and employees) in force as of August 28, 1964 with respect to any of the Thompson Companies and, without restricting the generality of the foregoing, those covering their respective properties, buildings, machinery, equipment, furniture, fixtures and operations, all of which policies will still be in effect at the Closing Date.

(6) All material agreements of any of the Thompson Companies which were not entered into in the ordinary course of business and which remained executory, in whole or in part, with respect to any of the Thompson Companies as of September 1, 1964, together with lists as of September 4, 1964 of all forward sales or purchase

commitments for delivery after October 4, 1964 and an estimate of expenditures not yet committed for but required as of September 1, 1964 to complete the construction of new facilities at Assonet, Massachusetts and Aberdeen, Mississippi. None of the Thompson Companies has any profit-sharing, retirement, pension or other similar "fringe benefit" plans or arrangements.

(7) The names and current annual salary rates of all the Thompson Companies' present officers and employees whose current annual regular salary rate with one or more of the Thompson Companies aggregates \$15,000 or more, together with a summary of or copies of the plans or policies establishing any commissions or bonuses paid or payable to such persons for the past or current fiscal years.

(8) The names and ages of all the Thompson Companies' pensioned employees, if any, whose pensions are unfunded and their current annual or monthly unfunded pension rates.

(9) The name of each bank in which any of the Thompson Companies has an account or safe-deposit box and the names of all persons authorized to draw thereon or to have access thereto.

(10) The names of officers and directors (including trustees in the case of Turner) of the Thompson Companies.

None of the Thompson Companies is in default with respect to any of the agreements or arrangements described in this paragraph (h). The Thompson Companies do not have outstanding any letters of credit or powers of attorney except routine powers of attorney relating to representation before governmental agencies or courts of record.

The copies of licenses and agreements heretofore delivered by the Thompson Companies to Continental (which licenses and agreements are referred to on the lists furnished pursuant to subparagraphs (3) and (6) of this subsection (h)) are true and complete copies of such documents in the respective forms in which they were executed and are now in effect.

(i) Litigation

Except for suits, if any, of a character incident to the normal conduct of the Thompson Companies' respective businesses and involving a potential recovery against the Thompson Companies of not more than \$30,000 in the aggregate, suits involving liabilities adequately covered by insurance, and suits described in the memorandum regarding litigation heretofore delivered to Continental by the Thompson Companies, there is no litigation, proceeding, or governmental investigation pending, or so far as known to the Stockholders or the executive officers of the Thompson Companies, in prospect, threatened against or relating to the

Thompson Companies, or their respective properties or businesses, or the transactions contemplated by this Agreement, or so far as known to the Stockholders or the executive officers of the Thompson Companies, any activity or activities of any of the Thompson Companies which may reasonably be expected to result in suit or threat of suit against or relating to the Thompson Companies or their respective businesses for patent, trademark or copyright infringement or for unfair trade practices.

(j) Certain Insurance Claims

One or more of the Thompson Companies suffered losses in the January 12, 1964 fire and explosion at Hebronville, Massachusetts, which losses were insured with Firemen's Mutual Insurance Company and Aetna Casualty Company. The consideration for the sale of the stock of the Thompson Companies recognizes the business interruptions which have led to present lack of productivity of one or more of the Thompson Companies because of the aforesaid casualty, and the purchase price has been measured, in part, by the property damage and business interruption losses resulting from that casualty, claims for which are being filed with the aforesaid insurance companies. Further, the purchase price payable hereunder recognizes that the losses to be sustained will continue beyond the Closing Date. Since January 12, 1964, \$2,000,000 has been received from the aforesaid insurance companies and allocated (on the May 31, 1964 Revised

Combined Statement of Condition) as follows: Property Damage (Thompson) - \$962,968.47; Inventory Losses (Apex and Thompson) - \$1,037,031.53. Stockholders have assured Continental that additional insurance proceeds will be received, on or before July 1, 1965, as follows: (i) Property Damage - \$3,037,031.53 (in addition to \$962,968.47 heretofore allocated to Thompson); and (ii) Use and Occupancy Profits and Expenses - \$1,262,809.71 (\$262,809.71 of which is reflected on the aforesaid Combined Statement as a Thompson receivable).

Continental will cause Thompson to designate the Stockholders' Committee as its agent to prosecute, compromise and settle all of the aforesaid insurance claims, and Continental agrees that the Thompson Companies will make available to the Stockholders' Committee all records and such of their personnel which may be necessary for the prosecution, compromise or settlement of such claims. The Stockholders' Committee shall bear all expenses incurred since May 31, 1964 and which may hereafter be incurred in attempting to collect said claims (other than the time and expenses of officers and other employees of the Thompson Companies).

To the extent that the payments received by the Thompson Companies or by Continental by the close of business on December 31, 1965 with respect to the aforesaid insurance claims shall be different from the amounts specified

above, the purchase price shall be increased or reduced, as the case may be, by the amount of such differential after giving effect to taxes, computed on the following basis:

(i) the full amount by which the additional insurance proceeds paid with respect to use and occupancy profits and/or expenses shall exceed or fall short of \$1,262,809.71 reduced by the product of (x) "The Assumed Rate of Taxation" (as defined in Section 14(a) hereof) multiplied by (y) the amount of such excess over (or deficiency under) \$1,262,809.71, plus or minus

(ii) the full amount by which the additional insurance proceeds paid with respect to property damage shall exceed or fall short of \$3,037,031.53.

Any net decrease (or increase) in the purchase price hereunder by reason of the application of the provisions of this Section 6(j) shall be made by decreasing (or increasing) Instalments numbered 5 and 6 (in the inverse order of their respective due dates) and assigning to the Stockholders' Committee all of such unpaid insurance claims. Notwithstanding any other provision hereof, to the extent that the Thompson Companies and Continental have not received additional insurance payments in the amounts specified above by January 1, 1966, or reduced the purchase

price in accordance with the preceding sentence, Continental shall have the right to assign to the Stockholders' Committee, at any time prior to June 30, 1966, all of such unpaid insurance claims (including interest thereon) and to reduce the purchase price in the manner hereinabove set forth by reducing Instalments numbered 5 and 6 (in the inverse order of their respective due dates).

(k) No Defaults

None of the Thompson Companies is in default under any outstanding contract, indenture, mortgage, lease, deed of trust, pledge or other agreement to which it is a party or any of its properties may be bound. The consummation of the transactions contemplated hereby will not result in the breach or termination of any provision of, or constitute a default under, any outstanding contract, indenture, mortgage, lease, deed of trust, pledge or other agreement to which Stockholders or any of the Thompson Companies are parties or by which they or any of the properties of the Thompson Companies may be bound.

7. Representations and Warranties of Continental

Continental represents and warrants to Stockholders as follows:

(a) Continental is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) The execution and delivery of this Agreement by Continental and the performance by it of all of its obligations hereunder have been duly authorized by all necessary corporate action.

(c) Performance of and compliance with the terms, provisions and conditions of this Agreement do not and will not conflict with or result in any violation of any charter, by-law, mortgage, indenture, contract, agreement, instrument, franchise, permit, judgment, decree, order, statute, rule or regulation applicable to Continental or to which it is a party or requires the consent of any public authority.

8. Opinion of Continental's Counsel

Continental shall deliver to Stockholders' Committee at the Closing an opinion dated the Closing Date of Continental's counsel, Keith W. Blinn, Esq., to the effect that the execution, delivery and performance of this Agreement by Continental have been duly authorized and approved by all necessary corporate or other action of Continental and this Agreement has been duly executed and delivered by Continental and constitutes a valid and binding obligation of Continental in accordance with its terms.

9. Brokers

Continental and Stockholders represent to each other that they know of no broker, finder or intermediary who has been involved in the transactions provided for herein

or any broker, finder or intermediary who might be entitled to a fee or commission upon the consummation of transactions provided for herein, except Lehman Brothers who will be compensated by Stockholders pursuant to separate agreement. Stockholders hereby agree to indemnify Continental and hold it harmless from and against any obligations or liabilities to any broker, finder or intermediary, arising from transactions provided for herein, and from and against any claim of such obligation or liability or any expense incurred in connection with defending against any such claim, including reasonable attorneys' fees, which shall have resulted from any contract, agreement or action of Stockholders or any of them. Continental hereby agrees to indemnify Stockholders and hold each of them harmless from and against any obligations or liabilities to any broker, finder or intermediary (other than Lehman Brothers) arising from the transactions provided for herein and from and against any claim of such obligations or liabilities or any expense incurred in connection with defending against any such claim, including reasonable attorneys' fees, which shall have resulted from any contract, agreement or action of Continental.

10. Stockholders' Committee

(a) Each of the Stockholders does hereby irrevocably constitute and appoint Norman M. Fain, M. Edgar Fain, and Irving J. Fain, herein referred to as the "Stockholders'

Committee," their true and lawful attorneys-in-fact, to exercise the following powers for them, and each of them, in their names, places and stead:

(1) to receive and receipt for the consideration to be paid by Continental to Stockholders pursuant to this Agreement;

(2) to disburse to Stockholders their pro rata shares of all monies received by the Stockholders' Committee for Stockholders after deducting therefrom any and all expenses which may be incurred in connection with Stockholders' interests hereunder, including, without limitation, expenses in connection with the transfers contemplated hereby, fees and expenses of legal, investment and financial advisers and auditing fees, if any;

(3) to employ or enlist the services of other persons in connection with any matters arising hereunder, and to remove them, and to appoint others in their places, and to pay and allow to the persons to be so employed such salaries, wages, fees, or other remuneration as said Stockholders' Committee shall think fit;

(4) to defend and protect Stockholders' interests hereunder and to institute legal actions and proceedings of any nature or description whatsoever, to receive and

accept service of process upon any of the Stockholders, consent to jurisdiction, and appear for all purposes in their behalf in any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby, and to take all other actions and steps as Stockholders' Committee may deem advisable, in the matter of protecting Stockholders' interests hereunder; to adjust all claims on behalf of or against Stockholders in connection herewith, and to compromise the same, if, in the judgment of Stockholders' Committee, the same should be done; to satisfy, give receipt, release and acquittance in settlement of said claims or in adjustment of Stockholders' interests hereunder including, without limitation, the authority to vary, alter, or modify any of the provisions, terms or conditions of this Agreement, giving and granting unto said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as any Stockholder could or might do if personally present, with full power of substitution and revocation, hereby ratifying all that Stockholders' said attorneys, or their substitutes, shall lawfully do or cause to be done by virtue hereof;

(b) Stockholders will not perform or take any action or steps, as principals or otherwise, in connection with any matters involved in this Agreement and its acceptance, or which may arise therefrom, except through and by the Stockholders' Committee, which is hereby granted sole and exclusive rights and privileges to act for and on behalf of Stockholders, in Stockholders' joint and several capacities, in respect of all matters pertaining to or which may arise from this Agreement and its acceptance.

(c) This power of attorney shall continue until such date as all of the powers and duties of the Stockholders' Committee shall have been fully discharged, and the powers and duties of the remaining or surviving members of the Stockholders' Committee shall not be diminished or abrogated by the mental or physical disability, resignation or death of any members of the Stockholders' Committee; provided, however, that any vacancy in the membership of the Stockholders' Committee occurring by a death, resignation, refusal or failure to act shall be filled by another Stockholder selected by the remaining member or members of said Stockholders' Committee.

(d) Any act approved by a majority of the Stockholders' Committee in office, whether at meetings or otherwise, shall be the act of the Stockholders' Committee.

11. Indemnities by Stockholders and Adjustments in Purchase Price

(a) If Continental, any subsidiary or affiliate of Continental, or any of the Thompson Companies shall suffer losses (including legal fees and expenses), not fully reimbursed by insurance, as a result of claims or actions asserted or instituted, or hereafter asserted or instituted, on behalf of any of the persons who were killed or injured in the fire at Hebronville, Massachusetts on January 12, 1964, Stockholders will indemnify and hold harmless Continental, such subsidiary or affiliate, or the Thompson Companies, as the case may be, with respect to the full amount of such losses.

(b) Stockholders will indemnify and hold harmless Continental, the Thompson Companies, and any subsidiary or affiliate of Continental, against the net amount (after giving effect to all tax benefits to be derived therefrom in the same or any subsequent fiscal period of the Thompson Companies, or of Continental, as the case may be, based upon The Assumed Rate of Taxation, as defined in Section 14(a) hereof) of

(1) any Federal, state or local taxes, including interest, penalties and additions to such taxes, which are imposed upon or measured by net income for any fiscal period ended before June 1, 1964, of any of

the Thompson Companies, other than those accrued or reserved for on the May 31, 1964 Revised Combined Statement of Condition and other than Federal income taxes of Thompson for the fiscal year ended May 31, 1964 resulting from the recognition of gain under Section 1033 of the Internal Revenue Code on the involuntary conversion of certain of its Hebronville, Massachusetts property; and

(2) any Federal, state or local taxes, including interest, penalties and additions to such taxes applicable to periods before June 1, 1964, imposed upon or measured by net income of Apex, Turner or Monroe, for any fiscal period beginning after September 30, 1963 and ending prior to January 1, 1965 other than those accrued or reserved for on the May 31, 1964 Revised Combined Statement of Condition except for any such tax which may arise in such current fiscal periods by reason of capitalization of items previously expensed or lengthening of useful lives.

Continental will cause the Thompson Companies to close their respective books on the Closing Date and to engage Price Waterhouse & Co. to prepare and cause to be filed Federal income tax returns for each of the Thompson Companies for all fiscal periods covered in whole or in part by the provisions of this Subsection 11(b). Continental will cause the Thompson Companies to appoint a duly qualified representative of the Stockholders' Committee as attorney-in-fact with full

power at Stockholders' expense to prosecute, settle and compromise the amount of any taxes which fall within the provisions of this Subsection 11(b).

(c) If, at any time within two years after the date hereof, Continental shall liquidate one or more of the Thompson Companies or shall merge one or more of the Thompson Companies into or with Continental or any Continental subsidiary, which has acquired all of the capital stock of the Thompson Companies, the purchase price provided in Section 2 hereof shall be reduced by an amount equal to the sum of:

(i) the amount, if any, of the increase in excess of \$70,000 in the Federal income tax for the taxable year of Continental or any one or more of the Thompson Companies by reason of the application of section 47(a)(1) of the Internal Revenue Code to "section 38 property" (as defined in said Code) constructed, reconstructed, erected or acquired by any of the Thompson Companies after December 31, 1961 and prior to June 1, 1964; and

(ii) the combined normal and surtax federal corporate tax rate in effect for year of liquidation or merger, multiplied by the excess of:

(A) the amount by which the lower of the "recomputed basis" of all "section 1245 property" of the liquidated or merged Thompson Companies or the fair market value of all such "section 1245 property" on May 31, 1964 exceeds the "adjusted

basis" of such "section 1245 property" on May 31, 1964 (as all of such terms are defined in the Internal Revenue Code except that "fair market value" shall be deemed to be equal to the basis for depreciation for computing the Contingent Payment (Exhibit B)), over

(B) \$3,430,000.

(d) If Continental shall, subsequent to the Closing Date, fail to collect the accounts and notes receivable at the aggregate recorded amounts thereof less applicable reserves as described in Section 6(e) or discover any liabilities (other than (i) liabilities covered by subsections (a), (b) or (c) of this Section 11, (ii) liabilities arising out of the action in the Federal District Court for the Eastern District of New York by Frank Gilmartin d/b/a Schildmacher against Apex Tire & Rubber Co., (iii) unfunded pensions for three former employees named in the list referred to in Section 6(h)(8) hereof, (iv) returns and allowances with respect to goods shipped prior to May 31, 1964, or (v) other liabilities specifically indemnified against elsewhere in this Agreement) of Thompson, Apex, Monroe or Turner which existed as of May 31, 1964 but which were not reflected or reserved for in the May 31, 1964 Revised Combined Statement of Condition, then the purchase price hereunder shall be reduced to the extent that after giving effect

to the tax consequences thereof, based on The Assumed Rate of Taxation (as defined in Section 14(a) hereof) such undisclosed liabilities are not offset by any overstatement of liabilities or understatement of cash, receivables or other current assets (other than inventories) in said Combined Statement; provided, however, that no reduction of the purchase price shall be made with respect to such undisclosed liabilities unless the aggregate of all such net adjustments shall exceed \$50,000.

(e) Except to the extent specifically indemnified against elsewhere in this Agreement, Stockholders will jointly and severally indemnify and hold harmless Continental, any subsidiary or affiliate of Continental, and each of the Thompson Companies against any losses, expenses or damages arising out of inaccuracies or breaches of any of the representations, warranties, agreements or covenants of Stockholders or the Stockholders' Committee contained in this Agreement.

(f) Whenever, pursuant to one of the foregoing subsections of this Section 11, Stockholders are required to indemnify Continental, any subsidiary or affiliate of Continental, or any of the Thompson Companies but either (i) provision is not made in such subsection for an appropriate adjustment of the purchase price hereunder or (ii) the method of making such adjustment is not specifically set forth in

such subsection, then Continental shall, to the extent the then unpaid Instalments are sufficient therefor, first reduce such unpaid Instalments, in inverse order of their respective due dates, before taking any other steps to enforce said indemnity.

(g) Notwithstanding any other provisions of this Section 11, Continental shall have no right (i) to reduce any of the Instalments numbered 1 through 4 at any time; (ii) to reduce Instalments numbered 5 and 6 at any time after June 30, 1966 or (iii) to reduce Instalment numbered 7 at any time after the expiration of three and one-half years following the Closing Date.

12. Survival of Representations and Warranties

All indemnities, representations, warranties, agreements and covenants given or made by Stockholders or by Continental in this Agreement or in any certificate or other instrument delivered pursuant hereto shall survive the Closing and any investigation made at any time with respect thereto, provided that, except as set forth below, no claim with respect to any of such representations, warranties, agreements or covenants may in any event be asserted after the expiration of three and one-half years following the Closing Date:

(a) Claims pursuant to or arising under Sections 6(a), 9, 10, 11(a) and 11(b) hereof may be asserted at any time hereafter; and

(b) Claims with respect to the defects and other imperfections of title affecting Rhode Island real properties referred to in Section 6(g) hereof must be asserted within one year after the Closing Date.

13. Prepayment of Contingent Payment

(a) If Continental, prior to December 31, 1968, shall sell or cause to be sold, directly or indirectly, a substantial portion of the stock or assets of the Thompson Companies (otherwise than to Continental itself or to any of its subsidiaries or affiliates), Continental shall, if such sale shall be objected to by Norman M. Fain (personally and not by any assignee or legal representative), pay to the Stockholders' Committee the sum of \$6,000,000 plus simple interest thereon at the rate of 4% per annum from the Closing Date to the date of such sale, such payment to constitute a full satisfaction and discharge of the Contingent Payment otherwise payable pursuant to Section 2(c) hereof and Exhibit B hereto.

(b) Continental shall have the right at any time after the Closing Date to prepay the Contingent Payment and terminate all its obligations with respect thereto by paying to the Stockholders' Committee the sum of \$6,000,000 plus simple interest thereon at the rate of 4% per annum from the Closing Date to the date of such prepayment.

14. General

(a) As used in this Agreement the term "The Assumed Rate of Taxation" will be (a) the highest rate of Federal income tax payable for the year or other fiscal period in question which would be imposed under the internal revenue laws in effect for such years upon a single corporation (not filing a consolidated return with any parent or subsidiary thereof), plus (b) the product of an amount equal to 100% less the rate determined in clause (a) above, multiplied by the rate of all applicable state and local taxes, if any, imposed upon or measured by net income which would have been payable by the Thompson Companies or by Continental, as the case may be, for such year or other fiscal period under applicable state or local law.

(b) The section and subsection headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns; provided, however, that no assignment (otherwise than by operation of law) by any Stockholder of his interest under this Agreement,

in whole or in part, shall be valid or effective, without Continental's prior written consent. Nothing in this Agreement, expressed or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

15. Notices, Etc.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, first-class postage prepaid,

(a) If to Stockholders or to the Stockholders' Committee, to the Stockholders' Committee in care of Daniel Jacobs, Esq., 1000 Union Trust Building, Providence, Rhode Island, or

(b) If to Continental, to Mr. L. F. McCollum, Chairman of the Board, Continental Oil Company, Suite 4618, 30 Rockefeller Plaza, New York, New York, with a copy to A. Earl Hodges, Esq., Continental Oil Company, P. O. Box 2197, Houston, Texas 77001.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed and delivered this Agreement in Providence, Rhode Island, as of the date first above written.

STOCKHOLDERS

Norman M. Fain

Norman M. Fain, Guardian of
the person and estate of
Alfred A. Fain

Selma F. Pilavin

Norman M. Fain

Daniel Jacobs

Selma F. Pilavin, Norman M.
Fain and Daniel Jacobs,
Executors under the will
of Albert Pilavin, deceased

Faye Barbara Mayer

Faye Barbara Mayer

Lawrence F. Gates

Lawrence F. Gates

Helene P. Gates

Helene P. Gates

Faye Barbara Mayer

Faye Barbara Mayer, Trustee
for David L. Mayer, under
agreement dated January 9,
1962

Faye Barbara Mayer

Faye Barbara Mayer, Trustee
for Ellen E. Mayer, under
agreement dated January 9,
1962

M. Edgar Fain

M. Edgar Fain

Camp D. Fain

Norman M. Fain

Norman M. Fain and Lloyd D.
Tarlin, Trustees of The M.
Edgar Fain Irrevocable
Trusts, under agreement
dated December 26, 1962

Norman M. Fain

Camp D. Fain

Norman M. Fain and Lloyd D.
Tarlin, Trustees for
Elliot B. Fain, under agree-
ment dated December 26, 1962

Norman M. Fain

Camp D. Fain

Norman M. Fain and Lloyd D.
Tarlin, Trustees for
Richard D. Fain, under
agreement dated December 26,
1962

Sally A. Fain Epstein

Camp D. Fain

Sally A. Fain Epstein and
Lloyd D. Tarlin, Trustees
for Sally A. Fain Epstein,
under agreement dated
December 14, 1962

Helene Gates
Helene Gates, Trustee for
Lisa S. Gates, under agree-
ment dated May 5, 1962

Irving Jay Fain
Irving Jay Fain

Evelyn Macie Fain

Norman M. Fain

William Lewis Bernstein
Evelyn Macie Fain, Norman M.
Fain and Melvin Irving
Bernstein, Trustees of The
Irving Jay Fain Irrevocable
Trusts, under agreement
dated June 11, 1962

Evelyn Macie Fain
Evelyn Macie Fain, Trustee
for Elizabeth Fain, under
agreement dated June 11, 1962

Evelyn Macie Fain
Evelyn Macie Fain, Trustee for
Lyle Stoneman Fain, under
agreement dated June 11, 1962

Norman M. Fain
Norman M. Fain

Rosalie B. Fain

Leo Bakalar and Victor J. Baxt
Rosalie B. Fain, Leo Bakalar
and Victor J. Baxt, Trus-
tees of The Norman M. Fain
Irrevocable Trusts, under
agreement dated June 11, 1962

Lawrence A. Fain

Lawrence A. Fain
Lawrence A. Fain and Lloyd D.
Tarlin, Trustees for Lawrence
A. Fain, under agreement
dated December 26, 1962

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Jonathan D. Fain, under
agreement dated July 6, 1960

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Martha A. Fain, under agree-
ment dated July 6, 1960

Rosalie B. Fain
Rosalie B. Fain, Trustee for
Wendy B. Fain, under agree-
ment dated July 6, 1960

M. Edgar Fain
M. Edgar Fain, Guardian of the
person and estate of Richard
Fain

Irving J. Fain
Irving J. Fain

E. Macie Fain
E. Macie Fain, Guardian of the
person and estate of
Elizabeth Fain

E. Macie Fain
E. Macie Fain, Guardian of the
person and estate of Lyle S.
Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of
the person and estate of
Jonathan D. Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of the
person and estate of Wendy B.
Fain

Rosalie B. Fain

Rosalie B. Fain, Guardian of the
person and estate of Martha A.
Fain

Faye Mayer

E. Macie Fain

E. Macie Fain

Rosalie B. Fain

Rosalie Fain

William L. Mayer

William L. Mayer

Victor J. Baxt

Victor J. Baxt

CONTINENTAL OIL COMPANY

(Corporate Seal)

By F. A. von Guelberg ^{987c}
Vice President _{JRB.}

ATTEST:

R. J. Smith
Secretary

PARCEL I

That lot of land with all buildings and improvements thereon, situated on the northerly side of Oakland Avenue in the City of Pawtucket in the State of Rhode Island, laid out and delineated as Lot No. 482 (four hundred eighty two) in Section CXV upon that plat entitled, "The Oakland Plat Surveyed & Platted By Cushing & Co. April 1872", recorded in the records of Land Evidence in said City of Pawtucket on Plat Card 128.

Said lot is further bounded and described as follows: Beginning at the southeasterly corner of said lot at a point in said Oakland Avenue, and at the south westerly corner of land now or lately of Augusta B. Buettner et al, said point being seventy nine and $57/100$ (79.57) feet westerly from the westerly line of York Avenue as measured along the northerly line of said Oakland Avenue; thence westerly bounding southerly on said Oakland Avenue forty (40) feet to land now or lately of Hay Realty Corp.; thence northerly bounding westerly on the last named land eighty five (85) feet to land now or lately of Arcito Castellucci et al; thence easterly bounding northerly on the last named land forty (40) feet to said land now or lately of Augusta B. Buettner et al and thence southerly bounding easterly on the last named land eighty five (85) feet to the place of beginning. Containing 3,400 square feet of land, more or less.

PARCEL II

That certain lot or parcel of land with all the buildings and improvements thereon situate on the southerly side of Oakland Avenue in the City of Pawtucket, State of Rhode Island, laid out and designated as Lot No. 532 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said lot is bounded and described as follows: Beginning at a point in the southerly line of Oakland Avenue, one hundred fifty-eight and $5/10$ (158.5) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Walter W. Stuben et al, and running thence southerly bounding easterly on said Stuben et al land a distance of eighty-five (85) feet to land now or lately of Andrew G. Tait et al;

thence turning and running westerly bounding southerly on said Tait et al land a distance of fifty (50) feet to land now or lately of Darlington Fabrics Corp.; thence turning and running northerly bounding westerly on said last named land a distance of eighty-five (85) feet to said Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of fifty (50) feet to said Stuben land and the point and place of beginning.

PARCEL III

That lot of land with the buildings and improvements thereon, situated on the northerly side of Hughes Avenue in the City of Pawtucket, State of Rhode Island, laid out delineated as Lot No. 533 (five hundred thirty three) in Section CXXVII on "The Oakland Plat Surveyed & platted by Cushing & Co. April, 1872" recorded in the records of Land Evidence in said City of Pawtucket on Plat Card 128 and Plat Card 358.

Said lot bounds southerly on Hughes Avenue fifty (50) feet and holding that width extends northerly eighty five (85) feet to and bounds northerly on land now or lately of Robert S. Boyce et al., bounding easterly on land now or lately of Ida Schwertner et al., and westerly on land now or lately of Darling Fabric Corp.

PARCEL IV

That lot of land with all buildings and improvements thereon, situated on the northerly side of Oakland Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lot No. 479 (four hundred seventy nine) in Section CXIV on that plat entitled, "The Oakland Plat, surveyed and Platted by Cushing & Co. April, 1872 Rec. May 3, 1872", recorded with the Records of Land Evidence in said City of Pawtucket on Plat Card No. 358, said plat is also recorded with said Records on Plat Card No. 128.

Said lot bounds southerly on Oakland Avenue forty (40) feet, westerly on land now or lately of Albert A. and Doris H. Adams eighty five (85) feet, northerly on land now or lately of August and Mary Pimental (40) feet and easterly on land now or lately of George Grise eighty five (85) feet.

PARCEL V

That certain lot or parcel of land with all the buildings and improvements thereon situated on the southerly side of Robinson Avenue, in the City of Pawtucket, State of Rhode Island, laid out and designated as Lot No. 481 in North Section CXV on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872" which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said lot is bounded and described as follows: Beginning at a point in the southerly line of Robinson Avenue, eighty-one and 61/100 (81.61) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Apex Tire & Rubber Co., and running thence southerly bounding easterly on said last named land a distance of one hundred two and 67/100 (102.67) feet, more or less, to land now or lately of Palmer Corporation; thence turning and running westerly bounding southerly on said Palmer Corporation land a distance of forty (40) feet, more or less, to land now or lately of Flora Niebuhr; thence turning and running northerly bounding westerly on said last named land a distance of one hundred three and 23/100 (103.23) feet, more or less, to Robinson Avenue; thence turning and running easterly bounding northerly on said Robinson Avenue a distance of forty and 02/100 (40.02) feet to said first mentioned point or place of beginning.

PARCEL VI

Those two certain lots or parcels of land, with all the buildings and improvements thereon, situated on the northerly side of Hughes Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lots Nos. 534 (five hundred thirty four) and 537 (five hundred thirty seven) on that plat entitled, "The Oakland Plat surveyed & platted by Cushing & Co. April, 1872" and which said plat is recorded with the Land Records of said City of Pawtucket on Plat Card 358.

PARCEL VII

That certain lot or parcel of land with all the buildings and improvements thereon, situated at the northwesterly corner of Oakland Avenue and York Avenue,

laid out and designated as lot numbered four hundred seventy-eight (478) on that plat of land entitled "The Oakland Plat Surveyed and Platted by Cushing & Co. April, 1872", which said plat is duly recorded in the office of the City Clerk in said City of Pawtucket on Plat Card 128.

PARCEL VIII

That certain lot or parcel of land with all the buildings and improvements thereon situate at the south-westerly corner of Robinson Avenue and York Avenue, in the City of Pawtucket, State of Rhode Island, bounded and described as follows:

Beginning at the point of intersection of the southerly line of Robinson Avenue with the westerly line of York Avenue, and running thence southerly bounding easterly on York Avenue a distance of fifty-one and 52/100 (51.52) feet, more or less, to land now or lately of Apex Tire & Rubber Co.; thence turning and running westerly bounding southerly on said last named land a distance of eighty-one (81) feet, more or less, to land now or lately of Arcito W. Castellucci et al; thence turning and running northerly bounding westerly on said last named land a distance of fifty-two and 67/100 (52.67) feet, more or less, to Robinson Avenue; thence turning and running easterly bounding northerly on said Robinson Avenue a distance of eighty-one and 61/100 (81.61) feet, more or less, to York Avenue and the point or place of beginning.

Said parcel comprises the northerly part of Lots No. 477 and 480 in North Section CXIV on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872" which plat is recorded in the office of the City Clerk of the City of Pawtucket on Plat Card 128.

PARCEL IX

That lot of land with all buildings and improvements thereon, situated on the southerly side of Robinson Avenue in the City of Pawtucket in the State of Rhode Island, laid out and delineated as lot No. 484 (four hundred eighty four) in Block CXV of North Section of that plat entitled, "The Oakland Plat Surveyed & Platted by Cushing & Co. April 1872", recorded in the Records of Land Evidence in said Pawtucket on Plat Cards No. 128 and 358.

Said lot bounds northerly on Robinson Avenue forty and 01/100 (40.01) feet, easterly on land now or lately of

Arcito W. Castellucci et al one hundred two and 72/100 (102.72) feet, southerly on land now or lately of Hay Realty Corp. forty (40) feet, more or less, and westerly on land now or lately of Hay Realty Corp. one hundred three and 46/100 (103.46) feet.

PARCEL X

That certain tract or parcel of land with all the buildings and improvements thereon situate on the westerly side of York Avenue in the City of Pawtucket, State of Rhode Island, bounded and described as follows:

Beginning at a point in the westerly line of York Avenue, fifty-one and 52/100 (51.52) feet, more or less, southerly from the southerly line of Robinson Avenue, said point of beginning being at the southeasterly corner of land now or lately of Raymond G. Laliberte et al., and running thence southerly bounding easterly on said York Avenue a distance of fifty (50) feet to land now or lately of George Guise; thence turning and running westerly bounding southerly in part on said Guise land and in part on land now or lately of Palmer Corporation a distance of eighty and 34/100 (80.34) feet to land now or lately of Arcito W. Castellucci; thence turning and running northerly bounding westerly on said Castellucci land a distance of fifty (50) feet to said Laliberte land; thence turning and running easterly bounding northerly on said Laliberte land a distance of eighty-one feet, more or less, to said York Avenue and the point or place of beginning.

PARCEL XI

That certain tract or parcel of land with all the buildings and improvements thereon situate at the southwesterly corner of Oakland Avenue and York Avenue in the City of Pawtucket, State of Rhode Island, comprising Lots No. 538, 539, 540 and 541 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the office of the City Clerk of the City of Pawtucket, on Plat Card 128.

Said tract is bounded and described as follows: Beginning at the point of intersection of the southerly line of Oakland Avenue with the westerly line of York Avenue, and running thence southerly bounding easterly on said York Avenue a distance of one hundred seventy and 32/100 (170.32) feet, more or less, to Hughes Avenue;

thence turning and running westerly bounding southerly on said Hughes Avenue a distance of seventy-six (76) feet, more or less, to land now or lately of Erich A. Horn et al; thence turning and running northerly bounding westerly in part on said Horn land and in part on land now or lately of Apex Tire & Rubber Co. a distance of one hundred seventy (170) feet, more or less, to Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of seventy-eight and 5/10 (78.5) feet, more or less, to said York Avenue and the point or place of beginning.

PARCEL XII

That certain tract or parcel of land with all the buildings and improvements thereon situate on the southerly side of Oakland Avenue, in the City of Pawtucket, State of Rhode Island, laid out and designated as Lots No. 535 and 536 on that plat entitled "The Oakland Plat Surveyed & Platted By Cushing & Co. April, 1872." which plat is recorded in the Office of the City Clerk of the City of Pawtucket on Plat Card 128.

Said tract is bounded and described as follows: Beginning at a point in the southerly line of Oakland Avenue, seventy-eight and 5/10 (78.5) feet, more or less, westerly from the westerly line of York Avenue, said point of beginning being at the northwesterly corner of land now or lately of Vincent Zukowski et al, and running thence southerly bounding easterly on said Zukowski land a distance of eighty-five (85) feet to land now or lately of Erich A. Horn et al; thence turning and running westerly bounding southerly on said Horn land a distance of eighty (80) feet to land now or lately of Apex Tire & Rubber Co.; thence turning and running northerly bounding westerly on said last named land a distance of eighty-five (85) feet to Oakland Avenue; thence turning and running easterly bounding northerly on said Oakland Avenue a distance of eighty (80) feet to said first mentioned point or place of beginning.

PARCEL XIII

That certain lot of land with all the buildings and improvements thereon, situated on the northerly side of Oakland Avenue in said City of Pawtucket and bounded and described as lot numbered 483 (four eighty-three) on that plat entitled "The Oakland Plat, surveyed & platted by Cushing & Company, April 1872" and recorded on Plat Card 128.

Said lot bounds southerly on Oakland Avenue 40 (forty) feet and holding that width extends northerly 85.16 (eighty-five and sixteen hundredths) feet, more or less, bounding westerly on land now or lately of Ralph G. Lumb, northerly on land now or lately of August and Christiana Honeke, and easterly on land now or lately of Victor and Alice Charron.

PARCEL XIV

Those four certain lots or parcels of land, with all the buildings and improvements thereon, situated on the southerly side of Saratoga Avenue and on the northerly side of Carter Avenue in the City of Pawtucket and State of Rhode Island, laid out and delineated as Lots Nos. 3 (three), 4 (four), 9 (nine) and 10 (ten) on that plat entitled, "Montrose Park Pawtucket, R. I. J. E. Judson, Eng'r." and which said plat is recorded in the office of the City Clerk of said City of Pawtucket on Plat Card 313.

PARCEL XV

That certain tract or parcel of land situated between Central Avenue and Oakland Avenue in the City of Pawtucket, Providence County and State of Rhode Island bounded and described as follows:

Beginning at a point at the intersection of the southerly line of Robinson Avenue with the westerly line of York Avenue; thence running southerly bounding easterly on York Avenue one hundred eighty-six and 52/100 (186.52) feet to a point; thence turning an interior angle of $90^{\circ}-43'-20''$ and running westerly bounding southerly on Oakland Avenue five hundred seven and 73/100 (507.73) feet to a point; thence turning an interior angle of $90^{\circ}-06'$ and running northerly bounding westerly on land of Oakland Corporation along the easterly face of an existing brick wall one hundred nine and 19/100 (109.19) feet to a point; thence turning an interior angle of $89^{\circ}-49'$ and running easterly along the southerly face of an existing brick wall twenty-one (21.00) feet to a point; thence turning an exterior angle of 90° and running northerly in part along the easterly face of an existing brick wall and in part along the easterly face of an existing cement block wall seventy-nine and 80/100 (79.80) feet to a point in the southeasterly line of Central Avenue for a corner; thence turning an interior angle of $109^{\circ}-50'$ and running northeasterly bounding northwesterly on Central Avenue thirteen and 3/100 (13.03) feet to a point at the intersection of the southeasterly line of Central Avenue with the southerly line of Robinson Avenue; thence turning an interior angle of $159^{\circ}-28'-30''$ and running easterly bounding northerly on Robinson Avenue four seventy-six and 88/100

(476.88) feet to the point or place of beginning.

The above described parcel of land contains by estimation 95,500 sq. ft.

PARCEL XVI

That certain tract or parcel of land situated on the westerly side of Mendon Avenue in the City of Pawtucket, County of Providence and State of Rhode Island bounded and described as follows:

Beginning at a point at the intersection of the westerly line of Mendon Avenue with the southerly line of Hunts Avenue; thence running southerly along the westerly line of Mendon Avenue five hundred sixty-nine and $63/100$ (569.63) feet to a point; thence turning an interior angle of 90° and running westerly bounding southerly on land now or lately of International Wire & Cable Corp. two hundred ten (210.00) feet to a point; thence turning an exterior angle of 90° and running southerly bounding easterly on land now or lately of said International Wire & Cable Corp. fifty-one (51.00) feet, more or less, to a point on the easterly boundary line of land formerly of the New York, New Haven and Hartford Railroad; thence running northwesterly on the boundary line of land formerly of the New York, New Haven and Hartford Railroad fifty-seven (57.00) feet, more or less, to a point; thence running northerly bounding westerly on land now or lately of said International Wire & Cable Corp. three hundred ninety-four and $35/100$ (394.35) feet, more or less, to a point in the southerly line of Phillips Place for a corner; thence running northeasterly along the southerly line of Phillips Place twenty-nine and $4/100$ (29.04) feet to a point; thence northerly bounding westerly on Phillips Place one hundred sixty-seven and $78/100$ (167.78) feet, more or less, to said Hunts Avenue; thence running easterly bounding northerly on Hunts Avenue two hundred and $9/100$ (200.09) feet, more or less, to the point or place of beginning..

The above described parcel of land contains by estimation 125,000 sq. ft.

PROCEDURE FOR COMPUTING CONTINGENT PAYMENT

As additional compensation to Stockholders, Continental, on March 1, 1969, will make a supplemental payment (hereinafter called the "Contingent Payment") to the Stockholders' Committee, as agents for the Stockholders. The amount of the Contingent Payment will not exceed \$6,000,000 plus simple interest computed at the rate of 4% per annum on the entire Contingent Payment from the Closing Date to March 1, 1969. The amount of the Contingent Payment will be equal to 60% of the "Cash Earnings" above the "Base Level" determined by Continental's independent public accountants, Arthur Young & Company, as follows:

1. "Cash Earnings" shall mean net income (excluding insurance recoveries under the claims asserted in connection with the fire referred to in Section 6(j) of the Sales Agreement) plus depreciation and amortization of good will, patent rights and underwriters' approvals during the period January 1, 1965 to December 31, 1968, inclusive (such period being herein called the "Contingent Period") generated by "Present Operations," "Logical Extension of Present Operations" and "Includible New Ventures" as defined in Sections 3, 4

and 5 hereof and attributable to the Thompson Companies and the properties purchased from Hay Realty.

2. The "Base Level" shall be \$10,000,000 unless the sum of capital investments made in "Present Operations," "Logical Extensions of Present Operations" and "Includible New Ventures" shall be less than \$10,000,000 during the Contingent Period, in which event the Base Level shall be determined according to the following formula:

$$\text{Base Level} = \$10,000,000 \times \left(\frac{\$40,000,000 - X}{\$40,000,000} \right)$$

where X equals \$10,000,000 less the amount of capital expenditures actually made during the Contingent Period.

3. "Present Operations" shall mean those operations being conducted as of the Closing Date in facilities owned, leased or used by the Thompson Companies, or which will be conducted between the Closing Date and December 31, 1968, in facilities now under construction or authorized prior to May 31, 1964.

Operations within the present product lines of the Thompson Companies in facilities which may be approved for construction between the Closing Date and December 31, 1968, also will be considered as Present Operations. Income from sale of know-how, royalty income, and income from operations conducted by third

parties, in whole or in part, directly for the benefit of one or more of the Thompson Companies shall also be considered as Present Operations.

4. "Logical Extensions of Present Operations" shall mean operations not now conducted or authorized by the Thompson Companies, but which require investment capital aggregating less than \$2,000,000 during the Contingent Period and are closely allied to Present Operations either in the manufacturing or marketing steps. Logical Extensions of Present Operations shall include, but are not limited to, rubber garden hose manufacture, manufacture of styrene-butadiene reinforcing crumb, manufacture of new types of plasticizers, and products of a similar nature.

5. "Includible New Venture" shall mean any project not described in Sections 3 and 4 above which is mutually agreed upon by Continental and the Stockholders' Committee.

6. For the purpose of determining the amount of Cash Earnings:

(a) Theoretical Federal and state income and other taxes will be computed as if the Thompson Companies (including the realty purchased from Hay Realty) had been operated as a single, independent corporation with deductions

pursuant to Sections 6(b) and 6(c) after January 1, 1965. Income taxes imposed on recapture of investment credits or depreciation taken prior to January 1, 1965 shall not be deducted from Cash Earnings.

(b) Interest on all long-term debts of the Thompson Companies and on the properties purchased from Hay Realty shall not be deducted from Cash Earnings. The entire amount of the interest on the Contingent Payment, however, will be considered as a cost in the determination of Cash Earnings regardless of whether accrued before, during or after the Contingent Period.

(c) Depreciation of assets of the Thompson Companies and the properties purchased from Hay Realty for computation of Cash Earnings and theoretical income taxes will be based on the following straight-line rates applied to the yearly average depreciable investment with no salvage value allowed:

Autos	25% per year
Diesel Tractors	25% per year
Gasoline Tractors	25% per year
Trailers	12.5% per year

Liquids Transport	12.5% per year
Office Equipment	10% per year
Laboratory Equipment	10% per year
Process Machinery & Equipment	9.1% per year
Process Buildings	9.1% per year
Other Buildings	4% per year

Classification of such assets shall be that allowable by the Internal Revenue Service, and the depreciable basis of such assets shall be (i) for Monroe, until liquidation, gross book value at January 1, 1965 plus the actual cost of capital investments made after January 1, 1965 and less the gross book value of assets retired after January 1, 1965; (ii) for Thompson, Apex and/or Turner, until liquidation, the "Net Sound Value" as reflected in the physical asset appraisal of The Lloyd-Thomas Co. referred to in Section 6(h)(2) of the Sales Agreement plus the actual cost of capital investments made after the date of such appraisal and less the "Net Sound Value" or actual cost, as the case may be, of assets retired since the date of such appraisal; (iii) actual cost with respect to the properties conveyed by Hay Realty pursuant to the Sales Agreement; and (iv) after liquidation of any one or

more of the Thompson Companies, the tax basis of the assets in the hands of the corporation or corporations receiving such assets on liquidation plus the actual cost of capital investments made after the date of such liquidation and less the tax basis or actual cost, as the case may be, of assets retired after such liquidation.

(d) Charges made by Continental for costs incurred in long-range product or process development, research and development expenses, or other staff services will be excluded from the Cash Earnings computation unless these charges are specifically authorized by the chief executive officer of the Thompson Companies. Continental charges for administrative overhead will be excluded from the Cash Earnings computation.

7. In the event Continental or any Continental subsidiary supplies products to any of the Thompson Companies, these products will be transferred at prices equal to the prices that Thompson Companies could have obtained under an arms-length long term contract for product of like quality and quantity.

8. Inventories will be valued at lower of cost or market. The methods and procedures of costing inventories will be those consistently followed by

the Thompson Companies in the past.

9. In no event shall Continental's method of financial accounting affect the computation of the Contingent Payment.

10. In no event shall the Contingent Payment exceed \$6,000,000 plus the interest referred to in the first paragraph of this Exhibit B.

11. All computations required for calculation of the Contingent Payment shall be made in accordance with generally accepted principles of accrual accounting applied on a consistent basis.

12. Notwithstanding any other provision of this Agreement, Continental shall have no obligation, either direct or indirect, to make any investment in or lend its credit to the development of the properties of the Thompson Companies or those purchased from Hay Realty.

REVISED

2012 9/8/64

EXHIBIT C

84 B

COMBINED STATEMENTS OF CONDITION AT MAY 31, 1964

<u>APEX TIRE & RUBBER Co.</u>	<u>TURNER WAREHOUSE COMPANY</u>	<u>THOMPSON CHEMICAL COMPANY</u>	<u>MONROE MANUFACTURING COMPANY</u>	<u>TOTALS</u>
<u>A S S E T S</u>				
\$ 72,123	\$ 9,176	\$ 545,444	\$ 13,705	\$ 640,448
4,109,592	6,569	3,412,296	827,858	8,356,315
1,207,035	0	19,319	247	1,226,601
711,762	0	1,085,592	592,951	2,391,305
5,872	1,067	35,867	8,211	51,017
6,106,384	16,812	5,099,518	1,442,972	12,665,686
683,329	56,797	1,325,957	1,610,260	3,676,343
26,650	0	650	278	27,578
0	0	633,528	0	633,528
0	0	481,067	0	481,067
0	0	807,287	0	807,287
0	0	750,313	0	750,313
\$6,816,363	\$73,609	\$9,098,320	\$3,053,510	\$19,041,802
<u>L I A B I L I T I E S</u>				
\$2,025,235	\$ 0	\$3,253,057	\$2,173,575	\$ 7,451,867
250,000	0	160,000	500,000	910,000
520,245	1,119	415,999	47,074	984,437
2,795,480	1,119	3,829,056	2,720,649	9,346,304
0	0	1,170,000	0	1,170,000
505,579	3,574	594,902	27,216	1,131,271
94,000	0	10,000	0	104,000
0	0	962,069	0	962,069
258,592	5,000	184,729	20,000	468,321
2,701,031	51,812	1,673,992	(227,677)	4,199,158
971,960	15,678	1,290,572	540,338	2,818,548
510,279	3,574	617,000	27,016	1,157,869
461,681	12,104	673,572 (1)	513,322	1,660,679
3,421,304	68,916	2,532,293	395,645	6,328,158
\$6,816,363	\$73,609	\$9,098,320	\$3,053,510	\$19,041,802
Dec. 31	Dec. 31	MAY 31	SEPT. 30	

FOR
CLAIM.

That certain tract or parcel of land together with the buildings and improvements thereon situated between Central Avenue and Oakland Avenue in the City of Pawtucket, County of Providence and State of Rhode Island, bounded and described as follows:

Beginning at a point in the northerly line of Oakland Avenue two hundred seventy-nine and thirty-five one-hundredths (279.35) feet easterly from the intersection of the northerly line of Oakland Avenue with the easterly line of Mendon Avenue, thence turning an interior angle of $89^{\circ}-57'-10''$ and running northerly along the easterly line of Lot 499 and Lot 500 in Square CXIX, North Section, The Oakland Plat surveyed & platted by Cushing & Co. April, 1872, said plat being duly recorded on Plat Card 128 and Plat Card 358 in the office of the recorder of deeds at Pawtucket, R.I., one hundred eighty and forty-six one-hundredths (180.46) feet to a point in the southeasterly line of Central Avenue for a corner; thence turning an interior angle of $109^{\circ}-47'-50''$ and running northeasterly along the southeasterly line of Central Avenue twenty-five and seventeen one-hundredths (25.17) feet to a point for a corner, thence turning an interior angle of $70^{\circ}-10'$ and running southerly in part along the easterly face of an existing cement block wall and in part along the easterly face of an existing brick wall seventy-nine and eighty one-hundredths (79.80) feet to a corner, thence turning an interior angle of 90 degrees and running westerly along the southerly face of an existing brick wall twenty-one (21) feet to a corner, thence turning an interior angle of $270^{\circ}-11'$ and running southerly along the easterly face of an existing brick wall one hundred nine and nineteen one-hundredths (109.19) feet to a point in the northerly line of Oakland Avenue for a corner, thence turning an interior angle of $89^{\circ}-54'$ and running westerly along the northerly line of Oakland Avenue two and eighty-seven one-hundredths (2.87) feet to the point or place of beginning.

EXHIBIT E

Conveyed by Apex Tire & Rubber Co. to Apex Incorporated

Parcel One: lot No. 511 on the plat entitled "The Oakland Plat. Surveyed & Platted By Cushing & Co. April 1872."

Parcel Two: lot No. 188 and 189 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and drawn in December, 1895 by R. H. Tingley, Eng'r."

Parcel Three: Lot No. 190 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and drawn in December, 1895 by R. H. Tingley, Eng'r."

Parcel Four: Lots "A" and 192 on the plat entitled "Re-Plat of a portion of the Oakland Plat Pawtucket R.I. belonging to Edwin Darling Surveyed and Drawn in December, 1895 by R. H. Tingley, Eng'r."

Conveyed by Thompson Chemical Company to Apex Incorporated

Lot No. 4 on the plat entitled "Part of the Oakland Plat Belonging to J. B. Hunt Surveyed & Platted June, 1873 by A. R. Sweet."

APEX TIRE & RUBBER CO.

MINUTES OF A SPECIAL MEETING OF STOCKHOLDERS
HELD ON NOVEMBER 30, 1964

A special meeting of the stockholders of Apex Tire & Rubber Co., a Rhode Island corporation, was held at 1000 Union Trust Building, Providence, Rhode Island, at 5:00 P. M. on November 30, 1964.

The Chairman ascertained that all of the outstanding shares of Common Stock of the Corporation were represented at the meeting by proxy. The Chairman directed that the proxy representing such shares be filed with the minutes of the meeting.

The Chairman presented to the meeting a waiver of notice signed by the holder of the proxy representing all of the outstanding shares of Common Stock of the Corporation and directed that the said waiver of notice be filed with the minutes of this meeting.

The Chairman stated that it was recommended that the Corporation be dissolved on or before December 31, 1964 and that its assets be distributed to Continental Oil Company, the sole stockholder of the Corporation, in complete liquidation of the Corporation and in complete cancellation and redemption of all of its stock. He stated that, in connection with the dissolution, Continental would assume all obligations of the Corporation and, retaining the Corporation's assets, would operate the

business of the Corporation, either directly or through a subsidiary or division of Continental.

The Chairman then presented to the meeting a copy of a proposed Plan of Liquidation of the Corporation dated November 17, 1964. Thereupon, on motion duly made and seconded and after discussion, the following resolutions were unanimously adopted:

REVOLVED,

- (1) that the Plan of Liquidation of the Company dated November 17, 1964, a copy of which has been submitted to this meeting, is hereby approved, and the Secretary is hereby directed to file a copy of said Plan with the records of this meeting;
- (2) that the Company be dissolved and that its assets be distributed to Continental Oil Company, as the sole stockholder thereof, in complete cancellation and redemption of all of the capital stock of the Company;
- (3) that the proper officers of the Company are hereby authorized, on behalf of the Company, to execute, deliver and/or file all such other instruments and to take all such other action, as they may deem necessary or advisable in connection with said dissolution and in order to carry out said Plan of Liquidation, including, without limiting the generality of the foregoing, authorizing counsel to appear for and on behalf of the Company in connection with the petition to be filed by or on behalf of Continental Oil Company for the dissolution of the Company, and authorizing said counsel to waive issuance and service of any subpoena in connection with said petition and to join therein, and the execution and delivery of an instrument or instruments between the Company and Continental Oil Company, providing for the transfer to Continental Oil Company of all assets

of the Company, and for the assumption by Continental Oil Company of all obligations of the Company.

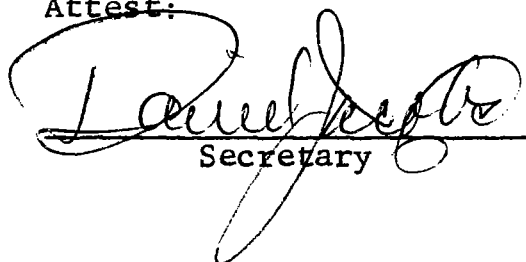
RESOLVED,

That this corporation shall discontinue its business, liquidate its business, assets and affairs, distribute its assets, capital and surplus to its stockholder as a complete liquidation of the corporation in full payment in exchange for all of the capital stock, not later than December 31, 1964 and dissolve; that the officers of this corporation or any of them and the holder of the issued and outstanding capital stock of this corporation, in their several capacities, are authorized and directed to discontinue the business of the corporation; to dispose of all assets and business property; to collect and receive accounts and notes receivable and all other amounts and obligations due to the corporation; to pay all debts and obligations and the legal and other expenses of liquidation and dissolution; to prepare and file all appropriate tax and other returns and governmental forms; to make, execute and deliver any instrument and all instruments and to take such other steps as they in their discretion shall deem necessary or desirable to evidence, effectuate and accomplish the said objectives and purposes; to file or cause to be filed a petition for the dissolution of this corporation and to engage counsel for that purpose; to engage and authorize the same or other counsel to appear for and in behalf of the corporation in respect to and in connection with such petition and to waive the issuance of any subpoena and the filing of any answer and to join with the petitioner in the prayer for the dissolution of the corporation and to take all other appropriate steps to the end and purpose, as they may be advised.

There being no other business to come before the meeting,
on motion duly made and seconded, the meeting was adjourned.

ADJOURNED.

Attest:


Secretary

APEX TIRE & RUBBER CO.

PLAN OF LIQUIDATION

WHEREAS, Continental Oil Company, a Delaware corporation (hereinafter referred to as Continental), is the holder of all outstanding stock of Apex Tire & Rubber Co., a Rhode Island corporation (hereinafter referred to as Apex); and

WHEREAS, it is contemplated that a petition to dissolve Apex signed by such stockholder will be filed with the Superior Court for the County of Providence in the State of Rhode Island pursuant to Section 7-5-17 of the General Laws of Rhode Island, 1956, as amended;

NOW, THEREFORE, this Plan provides that:

1. Apex is to effect its complete liquidation and dissolution in accordance with the applicable provisions of the Rhode Island General Corporation Law and all of its assets are to be distributed to Continental, as holder of all outstanding stock of Apex, in complete liquidation of Apex and in complete cancellation and redemption of all of its stock. Upon such liquidation, Continental, as the sole stockholder of Apex, will assume all obligations of Apex.

2. The foregoing steps are to be completed on or before December 31, 1964.

Dated: November 17, 1964

CERTIFICATE OF INCORPORATION

OF

APEX TIRE & RUBBER CO.

---ooOoo---

FIRST. The name of the corporation is

APEX TIRE & RUBBER CO.

SECOND. Its principal office in the State of Delaware is located at No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name and address of its resident agent is The Corporation Trust Company, No. 100 West Tenth Street, Wilmington 99, Delaware.

THIRD. The nature of the business, or objects or purposes to be transacted, promoted or carried on are to manufacture, process, purchase, own, handle, sell, import, export and generally to trade and deal in and with substances, raw materials, goods, wares and merchandise of every kind, nature and description, including without limiting the generality of the foregoing, rubber chemicals, chemical products and automotive and airplane tires and tubes and to engage or participate, as principal or agent, and either alone or jointly with others, in any mercantile, industrial or trading business of any kind or character whatsoever.

The objects and purposes specified in the foregoing clauses shall be construed as powers as well as objects and

purposes, and the matters referred to in each clause shall, unless herein otherwise expressly provided, be in nowise limited by reference to or inference from the terms of any other clause, but shall be regarded as independent objects, purposes and powers. The enumeration herein of objects, purposes and powers shall not be deemed to exclude by inference or otherwise any of the rights, privileges, powers, objects or purposes which this corporation is or may be entitled to exercise under the laws of the State of Delaware now or hereafter in effect or implied by reasonable construction of said laws.

FOURTH. The total number of shares of stock which the corporation shall have authority to issue is ten (10) shares, all of one class, and each such share shall have a par value of One Hundred Dollars (\$100.00) amounting in the aggregate to One Thousand Dollars (\$1,000.00).

FIFTH. The minimum amount of capital with which the corporation will commence business is One Thousand Dollars (\$1,000.00).

SIXTH. The names and places of residence of the incorporators are as follows:

NAMES

RESIDENCES

SEVENTH. The corporation is to have perpetual existence.

EIGHTH. The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH. The following provisions are inserted for the management of the business and for the conduct of the affairs of the corporation and for further definition, limitation and regulation of the powers of the corporation and of its directors and stockholders;

(1) In furtherance and not in limitation of the powers conferred by statute, the board of directors of the corporation is expressly authorized:

(a) without the assent or vote of the stockholders, except where otherwise expressly provided in the by-laws, to make, alter or repeal the by-laws of the corporation.

(b) to set apart out of any funds of the corporation available for dividends a reserve or reserves for any proper purpose and to vary the amount of or abolish any such reserve in the manner in which it was created;

(c) to determine the use and disposition of any surplus or net profits of the corporation and to fix the times for the declaration and payment of dividends;

(d) to authorize and cause to be executed mortgages and liens upon any or all of the property and assets of the corporation;

(e) to determine from time to time whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the corporation (other than the stock ledger), or any of them, shall be open to the inspection of stockholders;

(f) to exercise all such further powers and authority as may be lawfully conferred upon the directors in the by-laws of the corporation.

(2) The corporation may enter into contracts or transact business with one or more of its directors or officers, or with any corporation or firm of which one or more of its directors or officers are directors, officers or members, or in which they may have a pecuniary or other interest; and, in the absence of fraud, such contracts or transactions shall not be invalidated or in any wise affected by the fact that such directors or officers are so connected with or have any interest in any such corporation or firm even though the vote or action of such directors or officers may have been necessary to obligate the corporation upon such contracts or transactions, provided that the fact of such connection or such interest shall have been disclosed or shall have been known to all of the directors of the corporation. At any meeting of the board of directors of the corporation which shall authorize or ratify any such contracts or transactions, any such director having such connection or interest may vote or act thereat with like force and effect as if he did not have such connection or interest, provided that in such case such connection or interest shall have been disclosed or shall have been known to all of the directors. No director or officer shall be disqualified from holding office as director or officer of the corporation by reason of any such connection or interest. In the absence of fraud, no director or officer having any such connection or interest shall be liable to the corporation or to any stockholder or creditor thereof, or to any other person, for any loss incurred under or by reason of such contracts or transactions, nor shall any such director or officer be accountable to the corporation or to any stockholder or creditor thereof or to any other person for any gains or profits realized under or by reason of such contracts or transactions.

(3) The directors in their discretion may submit any contract or act for approval or ratification at any annual meeting of the stockholders or at any special meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or be ratified by the vote of the holders of a majority of the stock of the corporation which is represented in person or by proxy at such meeting and entitled to vote thereat (provided that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and as binding upon the corporation and upon all the stockholders as

though it had been approved or ratified by every stockholder of the corporation, whether or not the contract or act would otherwise be open to legal attack because of directors' interest or for any other reason.

(4) Each director and each officer of the corporation shall be indemnified by the corporation against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of his being or having been a director or officer of the corporation (whether or not he continues to be such a director or officer at the time of incurring such expenses), except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his duties as such officer or director. Such right of indemnification shall not be deemed exclusive of any other rights to which he may be entitled hereunder and under any by-laws, agreement, vote of stockholders or otherwise. The corporation shall have the right to intervene in and defend all such actions, suits or proceedings brought against any present or former director or officer of the corporation. Whenever in this paragraph a director or officer is referred to, such reference shall be inclusive of his heirs, executors and administrators.

(5) Meetings of the stockholders of the corporation may be held outside the State of Delaware, if the by-laws so provide.

(6) The books of the corporation may be kept (subject to any provisions contained in the statutes) outside the State of Delaware at such place or places as may from time to time be designated by the board of directors.

(7) Election of directors of the corporation need not be by ballot unless otherwise provided in the by-laws.

TENTH. Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this corporation or of any creditor or stockholder thereof, or on the appli-

cation of any receiver or receivers appointed for this corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation.

ELEVENTH. The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

WE, THE UNDERSIGNED, being each of the incorporators hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly have hereunto set our hands and seals this 11th day of December A.D. 1964.

/s/ A. D. Atwell

/s/ F. J. OBARA, JR.

/s/ A. D. GRIER

6
CONTINENTAL OIL COMPANY

and

ELMGROVE CORPORATION

AGREEMENT and SCHEDULES

as signed in New York on July 24 , 1968

Exhibit E

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Exhibit A - Guaranty of Norman M. Fain	
Exhibit B - Guarnty of Thompson Apex Company	
Exhibit C - Mortgage Deed Thompson Apex Company to Continental Oil Company	
Exhibit D - Pro Forma Balance Sheet June 30, 1968	
Exhibit E - Finished Goods Inventory Unit Prices	
Exhibit F - Garden Hose Sales Agreement Conoco Plastics and Thompson Apex with Price Lists	
Schedule A - Thompson Apex Insurance Policies, Plant and Equipment, Retirement Plans, Officers and Directors, Vehicles, Bank Accounts, Patents, Trademarks and Tradenames	

AGREEMENT dated July 24, 1968 between CONTINENTAL OIL COMPANY, a Delaware corporation (Seller), and ELMGROVE CORPORATION, a Delaware corporation (Purchaser),

WHEREAS, pursuant to the Federal Trade Commission Decision and Order bearing Docket No. C-1270 (the Consent Order), Seller has agreed to divest certain of its assets, properties, rights and privileges;

WHEREAS, a portion of such assets, properties, rights and privileges are owned by Thompson Apex Company, a Delaware corporation (Thompson Apex), all of the outstanding capital stock of which is owned by Seller; and

WHEREAS, Purchaser is willing to buy from Seller, and Seller is willing to sell to Purchaser, all of the outstanding capital stock of Thompson Apex (the Thompson Apex Stock);

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree as follows:

1. SALE OF STOCK.

At the Closing, Seller will assign, transfer and deliver to Purchaser the Thompson Apex Stock, in exchange for the consideration set forth in Section 2.

2. CONSIDERATION FOR SALE OF STOCK.

The consideration for the Thompson Apex Stock shall be \$14,000,000, \$2,000,000 of which is to be paid at the Closing referred to in Section 3, and the balance of which is to be paid in installments (Installments), as follows:

No. 1	\$1,100,000	First Anniversary of Closing
No. 2	\$1,100,000	Second Anniversary of Closing
No. 3	\$1,100,000	Third Anniversary of Closing
No. 4	\$1,100,000	Fourth Anniversary of Closing
No. 5	\$1,100,000	Fifth Anniversary of Closing
No. 6	\$1,100,000	Sixth Anniversary of Closing
No. 7	\$5,400,000	Seventh Anniversary of Closing

The down payment of \$2,000,000 and the Installments and interest thereon are to be paid in good funds by checks drawn on a bank or banks which are members of the New York Clearing House Association.

2.1. Interest on Installments. Interest on all Installments shall accrue from the date of the Closing at a rate per annum which is equal to the minimum commercial lending rate, from time to time in effect, of Morgan Guaranty Trust Company of New York. Any change in interest rate resulting from a change in such minimum commercial lending rate shall be effective at the beginning of the business day next

following each such change in rate. Interest on all Installments shall be payable annually on the anniversary of the date of the Closing, commencing with the first anniversary of the date of the Closing.

2.2. Prepayment of Installments. Purchaser shall have the right at any time or from time to time to prepay, without penalty, in whole or in part, any of the Installments. Any such prepayment shall be first applied to interest accrued to the date of prepayment and any remaining amount applied to such Installment of Installments as Purchaser may designate.

2.3. Acceleration of Installments. Upon the occurrence of any of the following events, all unpaid Installments and accrued interest thereon shall become immediately due and payable on Seller's demand:

(a) failure of Purchaser to pay any Installment, or interest thereon, on the due date thereof, provided such nonpayment continues for a period of ten days after Purchaser has been notified of such failure;

(b) the approval by any United States District Court or judge thereof of the filing of any petition by or against Purchaser or Thompson Apex under the Federal Bankruptcy Act as now or hereafter in force;

(c) the execution and delivery by Purchaser or Thompson Apex of a general assignment for the benefit of its creditors;

(d) the appointment of a receiver of Purchaser or Thompson Apex by a court of competent jurisdiction, which appointment shall not have been vacated within a period of 30 days after the date of such appointment;

(e) the failure of Purchaser to comply with the obligations imposed upon it by Section 2.5 hereof, provided such failure continues for a period of ten days after Purchaser has been notified of such failure;

(f) the failure of Thompson Apex to comply with the terms and conditions of the mortgage described in Section 2.5 hereof, provided such failure continues for a period of ten days after Purchaser has been notified of such failure.

2.4. Guaranty of Installments. The due and punctual payment of the principal of, and interest on, Installments Nos. 1, 2 and 3 shall be guaranteed by Norman M. Fain, a stockholder of Purchaser. Such guaranty shall be substantially in the form annexed hereto as Exhibit A. Norman M. Fain, by his signature at the end of this Agreement, agrees to execute and deliver such guaranty at the Closing.

2.5. Security for Installments. Until the amount of all of the Installments has been paid in full, Purchaser will not pay any dividends or make any other distributions with respect to its capital stock. Purchaser further agrees that, until the amount of all Installments has been paid in full, it will deliver to Seller (a) within 90 days after the end of each fiscal year of Purchaser, a consolidated balance sheet of Purchaser and Thompson Apex as of the end of such fiscal year and consolidated statements of income of Purchaser and Thompson Apex for such year, which financial statements shall be certified by Price Waterhouse & Co. or by such other independent public accountants as may then be engaged by Purchaser; and (b) within 60 days after the end of the first half of each fiscal year of Purchaser, an unaudited consolidated balance sheet of Purchaser and Thompson Apex as at the end of such first half year and an unaudited consolidated statement of income for the six months then ended, similarly prepared and certified by an authorized financial accounting officer of Purchaser. As security for the payment of the Installments, Purchaser shall cause Thompson Apex, on the date of the Closing, to guarantee the due and punctual payment of the Installments by executing and delivering a guaranty substantially in the form of Exhibit B and as collateral security for such guaranty, to execute and deliver to Seller its mortgage, substantially in the form annexed hereto as Exhibit C.

3. REPRESENTATIONS AND WARRANTIES BY SELLER.

3.1. Organization. Thompson Apex is a corporation duly organized, validly existing and in good standing under the laws of Delaware, has the corporate power and is duly authorized to carry on its business where and as now conducted and to own, lease and operate properties as it now does, and is qualified as a foreign corporation in Mississippi, Rhode Island and Texas. Thompson Apex shall have been qualified as a foreign corporation in Massachusetts on the earliest date on which such qualification is required. Thompson Apex owns no capital stock of any other corporation. The copies of the Certificate of Incorporation and By-Laws of Thompson Apex which have been delivered to Purchaser are complete and correct as of the date hereof.

3.2. Capitalization. The entire authorized capital stock of Thompson Apex consists of 10 shares, par value \$100 per share, all of which are issued and outstanding. All such shares have been validly issued and are fully paid and non-assessable. There are no outstanding warrants, options, rights, calls or commitments of any kind relating to, or restrictions upon the transfer of, any issued or unissued shares of the capital stock of Thompson Apex.

3.3. Ownership of Capital Stock; Authorization. Seller is the record and beneficial owner of 10 shares of

the capital stock of Thompson Apex, free and clear of all claims, liens and encumbrances. Seller has the legal power and right to enter into and perform this Agreement; the execution, delivery and performance of this Agreement by Seller have been duly authorized by all requisite corporate proceedings; and the consummation of the transactions contemplated by this Agreement will not result in the breach or termination of any term or provision of, or constitute a default under, any indenture, mortgage, deed of trust or other agreement or instrument to which Seller or Thompson Apex is a party, or by which either of them or their property is bound.

3.4. Financial Statement. Seller has made, or prior to the Closing will make, all such transfers and conveyances to Thompson Apex (and Thompson Apex will make all such transfers and conveyances) as to make the pro forma balance sheet of Thompson Apex as at June 30, 1968, which is attached hereto as Exhibit D, substantially correct.

3.5. Title. Thompson Apex has, or at the time of the Closing will have, good and marketable title to all of its assets and properties (including all those reflected on the pro forma balance sheet described in Section 3.4., except as since sold or otherwise disposed of in the ordinary course of Thompson Apex's business) free and clear of any claims, liens or encumbrances, except: (a) for the liens

of current taxes not yet due and payable and such imperfections of title, easements and encumbrances, if any, as are insubstantial in character, amount and extent and do not materially detract from the value or interfere with the present use of the properties subject thereto or affected thereby or otherwise materially impair business operations; and (b) those claims, liens or encumbrances which have been created by acts of the officers (other than Glen E. Downing) of Seller's Thompson Apex Division or of Thompson Apex whose regular place of employment is Pawtucket, Rhode Island or Hebronville, Massachusetts.

3.6. Taxes. Thompson Apex has filed all federal, state and local tax returns required to be filed and has paid or made provision for payment of all taxes due and payable on or before the date hereof. There are no claims pending against Thompson Apex for past due taxes, nor does Seller know of any threatened claims, and there are no outstanding waivers or agreements by Thompson Apex for the extension of the time for the assessment of any tax.

3.7. Lists of Properties, Contracts, etc.
Schedule A, which has been delivered to Purchaser by Seller, contains complete and accurate lists and descriptions of the following (giving effect to all transfers contemplated by Section 3.4):

3.7.1. All insurance policies of Thompson Apex.

3.7.2. Deeds and title insurance policies and Massachusetts Land Court Decrees relating to all real property owned by Thompson Apex and lists of major items of its plant, properties, machinery and equipment and other physical property physically located at Pawtucket, Rhode Island and Hebronville and Wilmington, Massachusetts, and all material written leases, contracts, agreements, commitments and understandings of any nature (including, but not limited to, franchise, patent, trademark and royalty agreements), except those executed on behalf of Thompson Apex or Seller's Thompson Apex Division by officers (other than Glen E. Downing) whose regular place of employment is Pawtucket, Rhode Island or Hebronville, Massachusetts, and which cannot be terminated by Thompson Apex at any time on less than thirty days' notice without liability. The copies of such leases, contracts, agreements, commitments and understandings which have been delivered to Purchaser are true and complete copies of the originals.

3.7.3. All pension, profit-sharing, bonus and retirement and other employee benefit plans of Thompson Apex.

3.7.4. The names of all present directors and officers of Thompson Apex.

3.7.5. The name of each bank in which Thompson Apex has an account or safe deposit box and the names of all persons presently authorized to draw thereon or have access

thereto and the names of all persons, if any, now holding powers of attorney from Thompson Apex and a summary statement of the terms thereof.

3.7.6. All trucks, trailers, automobiles and transportation equipment presently owned or leased by Thompson Apex.

3.7.7. All inventions, patents, patent applications, technology, know-how, trademarks (including service marks), trademark registrations and applications for registration, trade names and copyrights owned by Thompson Apex, subject to the provisions of Section 6.7.

3.8. Compliance with Contracts and Commitments.

To the best of Seller's knowledge, Thompson Apex and Seller have complied with the provisions of all leases, contracts, agreements, commitments and understandings affecting the business or properties of Thompson Apex, and no default exists under any thereof.

3.9. Litigation; Compliance with Laws. To the best of Seller's knowledge, except for the counterclaim of Murray Tire Company in a suit in Raleigh, North Carolina and the Consent Order and the stipulation referred to in Section 6.6, and except for matters which are being supervised by officers (other than Glen E. Downing) of Seller's Thompson Apex Division or of Thompson Apex whose regular place of employment is in Pawtucket, Rhode Island or Hebronville,

Massachusetts, there is no litigation, proceeding (not compensated by insurance) or governmental investigation pending, or any order, injunction or decree outstanding, against or relating to Thompson Apex, its assets or business, nor does the Seller know of any basis for any such litigation, proceeding, or governmental investigation.

Except as Seller has previously advised Purchaser in writing, Seller knows of no violation of any applicable law, order, regulation or requirement relating to the business or properties of Thompson Apex (including zoning regulations and laws relating to the employment of labor).

3.10. Working Capital. Subject to the provisions of Section 5, on the date of the Closing Thompson Apex will have working capital of \$4,000,000. For the purposes of this Agreement, working capital shall mean the excess of current assets (cash, accounts and notes receivable, inventories, deposits, prepaid expenses and deferred charges) over current liabilities (accounts payable, taxes and other obligations the regular and ordinary liquidation of which is expected to occur within twelve months).

3.11. Other Liabilities. On the date of the Closing Thompson Apex shall have no indebtedness having a maturity of more than twelve months.

3.12. Completeness of Representations and Warranties. Seller has made no representations or warranties other than

those contained in this Agreement with respect to the Thompson Apex business or properties, or the rights or title thereto, or with respect to the value of any thereof or the earnings or earnings capacity of Thompson Apex; and except as to those matters upon which Seller has made specific representations herein, Purchaser relies and shall rely solely on its own independent examinations, inspections, estimates, computations, reports, studies and knowledge of such properties, assets and rights.

4. REPRESENTATIONS AND WARRANTIES BY PURCHASER:

Purchaser hereby represents and warrants to Seller as follows: ---

4.1. Organization. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of Delaware.

4.2. Authorization. Purchaser has full power and authority to enter into and to perform this Agreement in accordance with its terms; the execution and delivery of this Agreement by Purchaser have been duly authorized by all requisite corporate proceedings; and Purchaser is not bound by or subject to any contractual or other obligation that would be violated by its execution or performance of this Agreement.

4.3. Investment Representation. Purchaser is acquiring the Thompson Apex Stock for its own account for

investment and not with a view to selling or otherwise distributing the same.

5. THE DISTRIBUTION AND PAYMENTS.

5.1. Distribution to Seller. At or prior to the Closing, Seller shall cause Thompson Apex to provide for a distribution (the Distribution) to be made after July 31, 1968 to Seller, either by declaring a dividend, or redeeming a portion of the outstanding stock of Thompson Apex. The Distribution shall be in an aggregate amount to be determined as provided in Section 5.2, and shall be paid in the manner provided in Section 5.3.

5.2. Amount of Distribution. The aggregate amount of the Distribution shall be determined as follows:

5.2.1. As soon as practicable, Seller shall cause Arthur Young & Company, Seller's independent public accountants, to supervise the valuation of the inventory of Thompson Apex and to prepare, certify and deliver to the parties (i) a balance sheet of Thompson Apex as at July 31, 1968, and (ii) a determination of the working capital of Thompson Apex (as defined in Section 3.10) as at such date. Price Waterhouse & Co., Purchaser's independent public accountants, shall be entitled to be present when the inventory is counted and to inspect such of the books and records of Thompson Apex and the working papers of Arthur Young & Company as Price Waterhouse & Co. shall deem necessary. Such balance sheet shall be

prepared in accordance with generally accepted accounting practices and principles, applied on a consistent basis, subject to the following:

(a) All items of inventory shall be valued at the lower of cost or market, in accordance with the procedures followed in valuing prior inventories at the Pawtucket, Hebronville and Wilmington facilities, except as provided in Exhibit E with respect to certain finished goods;

(b) All accrued but unpaid liabilities of Thompson Apex, including, but not limited to, taxes, payrolls, vacation pay and fringe benefits of employees, and commissions payable to salesmen and manufacturers' representatives shall be prorated as at July 31, 1968;

(c) A reserve shall be established for bad debts, doubtful accounts, returns, rebates, allowances and all other customary inventory adjustments, including a reserve for all product warranties in connection with goods sold and delivered prior to July 31, 1968, in the amount of \$190,000;

(d) Excluded Receivables and Liabilities (as defined in Section 5.4) shall not be taken into account;

(e) The claim against Howe Scale Company shall be valued at \$1; and

(f) Each class of items of fixed assets shall be valued at its book value (or, if different from book value, its adjusted basis for federal income tax purposes).

5.2.2. The balance sheet and determination of working capital delivered as provided in Section 5.2.1 shall be final and binding unless Price, Waterhouse & Co. objects to any of the items contained therein within ten days after the balance sheet and determination are delivered. If such an objection is made, the disputed items, if not resolved by the parties within five days thereafter, shall be submitted to a third firm of independent public accountants, to be chosen jointly by the parties among Arthur Andersen & Co., Lybrand, Ross Bros. & Montgomery, and Touche, Ross, Bailey & Smart for a final and binding determination. The fees and expenses of such third accounting firm shall be shared equally by the parties.

5.2.3. The aggregate amount of the Distribution shall be equivalent to the excess of (i) the working capital of Thompson Apex on July 31, 1968, determined as provided above, over (ii) \$4,000,000.

5.3. Payment of Distribution. The Distribution shall be paid to Seller as follows:

5.3.1. At the Closing, Thompson Apex shall transfer and deliver to Seller all of the cash and Certificates of

Deposit owned by Thompson Apex on July 31, 1968.

5.3.2. After Thompson Apex has collected proceeds of accounts receivable existing on July 31, 1968 (other than Excluded Receivables) in an amount equal to the sum of (a) Thompson Apex's current liabilities (other than Excluded Liabilities) as at July 31, 1968, and (b) the excess of (i) \$4,000,000 plus the amount of all reserves to be shown on the balance sheet as provided in Section 5.2.1, over (ii) the aggregate value of Thompson Apex's inventories as at July 31, 1968 plus the amount of Thompson Apex's prepaid expenses as at such date which are not distributed to Seller as part of the Distribution, Thompson Apex shall remit all of the further proceeds of the accounts receivable existing on July 31, 1968, on a weekly basis, to Seller's account at Morgan Guaranty Trust Company of New York, until the amount of the Distribution has been paid in full, or until January 2, 1969, whichever shall be earlier. For the purposes of the preceding sentence, until the determination of working capital has become final and binding in accordance with Section 5.2, the amount of Thompson Apex's accounts receivable, the value of its inventories and the amount of its current liabilities shall be taken as set forth on the books of Thompson Apex as at July 31, 1968. Within five days after the determination of working capital has become final and binding, Seller shall pay to Thompson

Apex, in cash, an amount equal to the excess, if any, of the amounts received by Seller pursuant to Section 5.3.1 and this Section 5.3.2 over the amount of the Distribution.

5.3.3. On January 2, 1969, Thompson Apex shall pay to Seller in cash any portion of the Distribution which remains unpaid on such date.

5.4. Excluded Receivables and Liabilities.

Prior to the Closing, Seller shall cause Thompson Apex to segregate upon its books and records any accounts receivable and liabilities which relate to goods manufactured at the facilities of Thompson Apex or Seller located at Assonet, Massachusetts and Aberdeen, Mississippi (Excluded Receivables and Liabilities). From the date hereof until the Closing, Excluded Liabilities shall be paid by Thompson Apex only for the account of Seller, which shall provide Thompson Apex with sufficient funds therefor. To the extent that Thompson Apex collects proceeds of Excluded Receivables, it shall remit to Seller or its designee any such proceeds on the business day following receipt. Seller hereby indemnifies Thompson Apex and agrees to hold it harmless against any loss, damage or expense incurred or suffered by Thompson Apex after the date of the Closing with respect to any Excluded Liabilities.

5.5. Post-Closing Adjustments. From time to time prior to the Closing, in accordance with its past practices, Seller shall make any advances to or for the benefit of Thompson Apex which may be required to enable Thompson Apex to meet its liabilities as they become due and payable, and may withdraw funds of Thompson Apex. In addition, Thompson Apex may perform various services with respect to Seller's Assonet operations. As soon as practicable after the Closing, the parties shall prepare an accounting, showing the amounts of all such advances and withdrawals made between July 31, 1968 and the date of the Closing, together with the amounts owing to Thompson Apex for the cost of such services. To the extent that the sum of (i) such withdrawals and (ii) any amounts owing to Thompson Apex for such services exceeds (iii) such advances (other than those made with respect to Excluded Liabilities, as provided in Section 5.4) the excess shall be promptly paid by Seller to Thompson Apex. To the extent that (iii) above exceeds the sum of (i) and (ii) above, the excess shall be added to the amount of the Distribution and paid in accordance with Section 5.3.

6. FURTHER AGREEMENTS OF THE PARTIES.

6.1. Access to Information. Prior to the date of the Closing, Purchaser and its representatives may make such investigation of the properties, assets and business of Thompson Apex as it may reasonably require and Seller shall cause Thompson

Apex to give to Purchaser and to its counsel, accountants and other representatives full access during normal business hours up to the date of the Closing to all of the properties, books, contracts, commitments, records and files of Thompson Apex and shall furnish the Purchaser during such period all such documents and information concerning its business and affairs as Purchaser may reasonably request.

6.2. Conduct of Thompson Apex Business Pending the Closing. From the date hereof until the Closing, except as Purchaser may consent in writing, Seller shall take all such action as may be required so that:

6.2.1. The business of Thompson Apex shall be conducted only in the ordinary course, which, without limitation, shall include the maintenance in force of insurance policies comparable in amount and scope of coverage to those listed in Schedule A.

6.2.2. Except for such amendments as may be required to change the name of Thompson Apex to Apex Chemical Company or such other name as may be approved by Purchaser, no change shall be made in the Certificate of Incorporation or By-Laws of Thompson Apex.

6.2.3. Except to the extent permitted by Section 5.1, no change shall be made in the authorized or issued capital stock of Thompson Apex, and no options, warrants or rights to purchase shares of its capital stock or securities convertible into its capital stock shall be issued or granted.

6.2.4. The properties and assets of Thompson Apex (after giving effect to the transfers contemplated by Section 3.4) shall be maintained in good condition and repair.

6.2.5. Except as otherwise requested by Purchaser or as otherwise contemplated hereunder, Seller shall use its best efforts, with respect to its businesses at Pawtucket,

Rhode Island and Hebronville and Wilmington, Massachusetts to preserve the business organization of Thompson Apex intact, to keep available the services of its present employees, and to preserve the good will of all those having business relations with it.

6.2.6. Except to the extent permitted by Section 5.1, no dividend or other distribution shall be declared or made in respect of any shares of the capital stock of Thompson Apex.

6.2.7. No general increase shall be made by Thompson Apex in any rate or rates of salaries or compensation of employees or agents, and no specific increase shall be made in the salary or compensation of any employee or agent whose total salary and compensation after such increase would be at an annual rate in excess of \$10,000.

6.2.8. Thompson Apex shall duly comply with all laws, regulations, ordinances, orders, injunctions and decrees applicable to it and to the conduct of its business.

6.3. Pension Plans. Purchaser presently intends to cause Thompson Apex to continue in effect the contributory and noncontributory pension plans of Thompson Apex, described in Schedule A, or as they may be amended, prior to the Closing, subject to the provisions therein for amendment or termination, and to provide such funding in addition to the employee contributions as may be required; provided, however, that in

the event of the amendment and continuation of such plans into separate plans relating to employees at one or more facilities, Thompson Apex shall be concerned only with the continuation of the plans (the Continued Plans) relating to the employees at the date hereof at the Pawtucket, Rhode Island and Hebronville, Massachusetts facilities operated by Thompson Apex (the Pawtucket and Hebronville Employees); provided further that the Purchaser intends to cause Thompson Apex to perform its responsibility of continuing to fund the benefits payable to the Pawtucket and Hebronville Employees under such Continued Plans which are not attributable to employee contributions. Under the Continued Plans Seller represents that assets on hand, assuming employee deposits through July 31, 1968, with respect to the Pawtucket and Hebronville Employees, including employee accumulated contributions of \$173,486.75, now have a book value of \$334,222.75. Seller further represents that Thompson Apex has the right to remove the trustee under the Continued Plans and appoint a successor trustee thereunder upon 60 days' notice to the present Trustee.

6.4. Compliance with the Consent Order. From the date hereof until the date of the Closing, Purchaser shall act in accordance with the provision of Section II of the Consent Order and shall cooperate fully with Seller and the Federal Trade Commission to expedite the requisite Federal Trade Commission approval of the transactions contemplated by

this Agreement.

6.5. Tax Returns. Seller will cause Thompson Apex to close its books on the date of the Closing and to file a federal income tax return (and any state or local income or franchise tax returns permitted to be filed) for the period from January 1, 1968 to the date of Closing. Purchaser will cause Thompson Apex to file all other applicable state and local income and franchise tax returns for the calendar year 1968. Seller shall reimburse Purchaser for the amount of any such state and local income or franchise taxes that are applicable to the period from January 1, 1968 to July 31, 1968, except to the extent that such taxes have been accrued on the balance sheet referred to in Section 5.2.1.

6.6. Compliance with Stipulation. Purchaser agrees that, from and after the Closing, in compliance with the "Stipulation in Lieu of Restraining Order and Final Decree", Peter F. Gagner, et al. v. Thompson Chemical Company, Purchaser shall not cause Thompson Apex to reactivate the buildings known as V-1 and V-2 for the manufacture or storage of poly vinyl chloride and the use of poly vinyl chloride monomer in such manufacture and will not bring to said premises any of such monomer.

6.7 Patents and Trademarks. The parties acknowledge that the trademarks owned by Thompson Apex at the time

of the Closing will be subject to the right of the purchaser of Seller's other facilities pursuant to the Consent Order to use the "TA" trademark until the bags on which such trademark appears have been disposed of. In addition, all inventions, patents, patent applications, technology and know-how owned by Thompson Apex at the Closing will be subject to (i) Seller's non-exclusive, royalty-free irrevocable right to use same for the benefit of itself and its subsidiaries in the United States of America and to sub-license the same outside the United States of America, (ii) the prior grant of an exclusive license in a License Agreement made the 8th day of June, 1967 between Continental Oil Company and Staveley Continental Limited, a United Kingdom corporation, and (iii) a non-exclusive, royalty-free irrevocable right, without accounting to Thompson Apex, by Olin Mathieson Chemical Corporation (Olin) to the use of such technology and know-how and patent claims in the practice of the polymerization of vinyl chloride as has been heretofore practiced in the polymerization facilities located at Assonet, Massachusetts, and the further right to sub-license such rights throughout the world, such rights of Olin being subject also to the aforesaid License Agreement.

6.8. Further Assurances. From time to time after the Closing, Seller shall without further consideration execute and deliver to Purchaser or Thompson Apex all assignments, conveyances and instruments, and shall take such further

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action, as Purchaser or Thompson Apex may request in order more fully to effect the transfers and other transactions contemplated by this Agreement.

6.9. Action by Purchaser. Purchaser shall cause Thompson Apex to take all action required to be taken by it hereunder after the Closing, including the payment of the Distribution provided for in Section 5, and shall cause the Board of Directors of Thompson Apex, as constituted after the Closing, to ratify all such action.

6.10. Thompson Name. Prior to the Closing Seller will notify Plastifay Kimya Industrisi A.O., the licensee under the Technical Service Agreement and Trademark Agreement described in Schedule A, that said agreements, subsequent to Closing, will be performed by Thompson Apex and that where the name "Thompson Chemical Company" has been utilized in the said Technical Service Agreement and Trademark Agreement, the licensee should substitute Thompson Apex. Purchaser recognizes that subsequent to Closing Thompson Apex will have no right, title or interest in the name "Thompson," except that Thompson Apex may continue to use the name "Thompson" on packaging materials on hand on the date of the Closing until such materials have been disposed of or consumed.

6.11. Foreign Sales Representatives. Seller has certain written and oral sales representatives agreements for sales representation in foreign countries. Prior to the Closing said agreements shall be assigned to Thompson Apex and after the Closing, without limitation as to time, Purchaser shall cause Thompson Apex to indemnify and hold harmless Seller and Olin, their successors and assigns, from and against any and all claims for commissions payable and expenses in connection with such claims, which

may arise by reason of the shipment by Seller or Olin of poly vinyl chloride and poly vinyl chloride products into the countries covered by said agreements, except with respect to orders procured through such foreign sales representatives.

7. CONDITIONS PRECEDENT TO CLOSING.

7.1. Conditions to the Obligations of Purchaser.

The obligations of Purchaser under this Agreement are subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

7.1.1. Except as expressly contemplated hereby, all representations and warranties of Seller shall be true at and as of the time of the Closing with the same effect as though such representations and warranties had been made at and as of such time, and Seller shall have performed and complied with all obligations, covenants and conditions required by this Agreement to be performed or complied with by it, prior to or at the Closing.

7.1.2. Purchaser shall have received an opinion of Andrew K. McColpin, Esq., counsel for the Seller, satisfactory in form and substance to Purchaser and its counsel, as to the matters stated in Sections 3.1, 3.2 and 3.3.

7.1.3. All requisite approvals of the Federal Trade Commission to the transactions contemplated by this Agreement shall have been obtained, and at the date of the Closing no suit, action or other proceeding shall be pending before any

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court or governmental agency in which it is sought to restrain or prohibit the consummation of such transactions.

7.1.4. The business, properties and assets of Thompson Apex shall not have been adversely affected in any material way as a result of any fire, accident or other casualty or any labor disturbance or Act of God or the public enemy.

7.1.5. Thompson Apex shall have surrendered its rights to do business as a foreign corporation in the States of Mississippi and Texas.

SELLER
(2) 7.1.6. Purchaser shall have consummated the sale of its Assonet, Massachusetts facilities to Olin.

7.2. Conditions to the Obligations of Seller.

The obligations of Seller under this Agreement are subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

7.2.1. All representations and warranties of Purchaser to Seller shall be true at and as of the time of the Closing with the same effect as though such representations and warranties had been made at and as of such time, and Purchaser shall have performed and complied with all obligations, covenants and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

7.2.2. Seller shall have received a favorable opinion of Messrs. Simpson Thacher & Bartlett, counsel for Purchaser, satisfactory in form and substance to Seller and its counsel, as to the matters stated in Sections 4.1 and 4.2, and as to the due authorization by, and corporate power of,

Thompson Apex to execute and deliver the guaranty and mortgage referred to in Section 2.5.

7.2.3. The condition set forth in Sections 7.1.3 and 7.1.4 shall be satisfied.

8. CLOSING.

8.1. Time and Place of Closing. The Closing hereunder shall take place at the offices of Seller, 30 Rockefeller Plaza, New York, New York at 10:00 o'clock A.M. on the seventh business day following final Federal Trade Commission approval of the transactions contemplated by this Agreement. If such Federal Trade Commission approval has not been obtained within sixty days after the date of the execution of this Agreement or if, due to causes beyond the control of Seller and Purchaser, the Closing cannot take place within thirty days after the receipt of such Federal Trade Commission approval then, unless otherwise agreed in writing by the parties, this Agreement shall terminate without liability of any kind on the part of either Purchaser or Seller.

8.2. Action Taken at the Closing. At the Closing the following shall occur:

8.2.1. Seller shall deliver to Purchaser certificates for the total number of shares of the outstanding capital stock of Thompson Apex. Each certificate shall be in form proper for transfer, with all necessary documentary tax stamps affixed and cancelled.

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8.2.2. Seller shall deliver to Purchaser resignations, effective the date of the Closing, of those officers and directors of Thompson Apex designated by Purchaser.

8.2.3. Seller shall deliver to Purchaser all of the minute and stock books, records, correspondence and other papers and documents. During the period of 30 days after the Closing, Seller may remove such of its Thompson Apex Division's books, records, correspondence, papers and documents which are presently in Pawtucket (the Pawtucket Records) as Seller deems necessary to a commercial warehouse within 20 miles of Pawtucket, Rhode Island. If any of the Pawtucket Records are so removed, they shall be stored there for a period of not less than three years, after which they shall be stored at Ponca City, Oklahoma for an additional period of not less than two years, during all of which times such removed Pawtucket Records shall remain the property of Seller, except that for a period of five years following the date of Closing, Thompson Apex or its duly authorized representatives shall be permitted access thereto during normal business hours, and after any of the Pawtucket Records have been removed to Ponca City, Seller shall provide Thompson Apex with copies of such portions thereof as Thompson Apex may reasonably request. Seller shall have access to the books and records of Thompson Apex for a period of five years from Closing.

8.2.4. Purchaser shall deliver to Seller the check or checks representing the down payment described in Section 2.

8.2.5. Purchaser shall deliver to Seller the guaranty of Norman M. Fain described in Section 2.4.

8.2.6. Purchaser shall cause Thompson Apex to deliver

to Seller the guaranty and mortgage described in Section 2.5.

8.2.7. Seller shall deliver to Purchaser certificates for all of the outstanding capital stock of Apex Tire and Rubber Company, a Delaware corporation, in form proper for transfer, with all requisite documentary tax stamps affixed and cancelled, and all books and records of Apex Tire and Rubber Company.

8.2.8. Seller shall cause Thompson Apex to cancel, effective on the date of the Closing, all outstanding policies of insurance on the assets, properties and business of Thompson Apex, except such policies of insurance as Purchaser may designate to Seller in writing at least three days prior to the date of the Closing.

8.2.9. Thompson Apex and Seller shall enter into an agreement in the form of Exhibit F, annexed hereto.

9. SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION.

9.1. Survival. Notwithstanding any investigation made at any time by or on behalf of Purchaser or Seller, the obligations of the parties with respect to their respective representations and warranties shall survive the Closing. The parties shall be liable for damages arising from their misrepresentations or from breaches of their warranties only to the extent that notice of a claim therefor is delivered to the party liable within one year of the Closing, except that with respect to the representations and warranties contained in Sections 3.6 and 6.5, Seller shall be liable for damages if such notice is delivered to it before the expiration of the statute of limitations applicable to the tax involved, and with respect to the representations and warranties contained in Section 3.3, Seller shall be liable for damages without any such limitation as to time.

9.2. Indemnification. Subject to the time limitations of Section 9.1, Seller shall indemnify and hold the Purchaser and Thompson Apex harmless against any loss, liability or expense which Purchaser or Thompson Apex may suffer, sustain or become subject to as a result of (i) any breach of any of the representations, warranties and agreements made by Seller, and (ii) any claims for damage to, or loss of, property of others, including loss of use of such property, resulting from defective merchandise, other than garden hose, shipped by Thompson Apex (or by Seller) prior to the Closing. Subject to the time limitations of Section 9.1, Purchaser shall indemnify and hold the Seller harmless against any loss, liability, damage or expense which it may suffer, sustain or become subject to as a result of any breach of any representation or warranty by Purchaser.

10. MISCELLANEOUS.

10.1. Expenses. All legal, accounting and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses. Seller shall pay all sales, transfer and documentary stamp taxes which may be required to be paid in connection with the transactions provided for herein.

10.2. Brokers. The parties respectively represent and warrant that they have not employed or utilized the services of any brokers or finders in connection with this Agreement or the transactions contemplated hereby. Each party

agrees to indemnify the other from and against the claims of any broker or finder claiming to have acted on behalf of such party.

10.3. Entire Agreement; Binding Effect. This Agreement constitutes the entire agreement among the parties, and there are no representations, warranties or agreements among the parties except as herein specifically set forth.

10.4. Governing Law; Amendments. Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the law of the State of New York applicable to contracts made and to be performed therein, and cannot be changed or terminated orally.

10.5. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by registered mail to the parties at the following addresses (or at such other address for a party as shall be specified by notice given pursuant hereto):

(i) if to Purchaser:

505 Central Avenue
Pawtucket, Rhode Island 02862
Attention: President

(ii) if to Seller:

9 Rockefeller Plaza
New York, New York 10021
Attention: Vice President and
General Manager,
Petrochemical Department

10.6. Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

10.7. Waiver. Any party may waive compliance by another with any of the provisions of this Agreement. No waiver of any provision shall be construed as a continuing waiver of that or any other provision.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written.

CONTINENTAL OIL COMPANY

By GORDON A. CAIN

AK.

ELMGROVE CORPORATION

By NORMAN M. FAIR

PRESIDENT

The provisions of Section 2.4
are agreed to:

NORMAN M. FAIR
Norman M. Fair

GUARANTY

FOR VALUE RECEIVED, NORMAN M. FAIN (Guarantor), residing at 730 Elmgrove Avenue, Providence, Rhode Island, hereby guarantees the due and punctual payment of the principal amounts of and interest upon Installments Nos. 1, 2 and 3 of the purchase price payable by Elmgrove Corporation to Continental Oil Company pursuant to Agreement of Sale dated July , 1968, which Installments are more fully described in Section 2 of said Agreement.

Guarantor's liability hereunder shall be unaffected by any amendment or modification of the provisions of the afore-said Agreement, or any extension of time for performance by Elmgrove Corporation or any other guarantor of its obligation or any waiver by Continental Oil Company of any right which it may have against Elmgrove Corporation or any other guarantor of Elmgrove's obligation.

No failure on the part of Continental Oil Company to exercise and no delay in exercising any right hereunder will operate as a waiver thereof nor will any single or partial exercise by Continental Oil Company of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided for hereunder are cumulative and not exclusive of any other remedies provided by law.

IN WITNESS WHEREOF the Guarantor has executed this Guaranty on this day of , 1968.

Norman M. Fain

GUARANTY

FOR VALUE RECEIVED, THOMPSON APEX COMPANY, a Delaware corporation (Guarantor), having its principal office at 505 Central Avenue, Pawtucket, Rhode Island, hereby guarantees the due and punctual payment of the principal amounts of and the interest upon all Installments of the purchase price payable by Elmgrove Corporation to Continental Oil Company pursuant to Agreement of Sale dated July , 1968, which Installments are more fully described in Section 2 of said Agreement.

Guarantor's liability hereunder shall be unaffected by any amendment or modification of the provisions of the aforesaid Agreement or any extension of time for performance by Elmgrove Corporation or any other guarantor of its obligation or any waiver by Continental Oil Company of any right which it may have against Elmgrove Corporation or any other guarantor of Elmgrove's obligation.

No failure on the part of Continental Oil Company to exercise and no delay in exercising any right hereunder will operate as a waiver thereof nor will any single or partial exercise by Continental Oil Company of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided for hereunder are cumulative and not exclusive of any other remedies provided by law.

The obligations of the Guarantor hereunder are secured by a mortgage of today's date covering the real and personal property described therein, which property is located in the City of Pawtucket, County of Providence, State of Rhode Island, and the City of Attleboro and Town of Seekonk, Bristol County, and the Town of Wilmington, Middlesex County, Commonwealth of Massachusetts.

IN WITNESS WHEREOF the Guarantor has executed this Guaranty on the day of , 1968.

THOMPSON APEX COMPANY

Attest:

By _____

Secretary

MORTGAGE DEED

THOMPSON APEX COMPANY, a Delaware corporation having a business address at 505 Central Avenue, Pawtucket, Rhode Island ("Mortgagor") for consideration paid, hereby grants to CONTINENTAL OIL COMPANY, a Delaware corporation having a business address at 30 Rockefeller Plaza, New York, New York ("Mortgagee"), to secure the payment of Mortgagor's obligations under a guaranty of today's date (the "Guaranty") of certain contractual obligations of Elmgrove Corporation, a Delaware corporation ("Elmgrove") under an Agreement dated July , 1968 between Mortgagee and Elmgrove, the following:

1. The real property situated in the City of Pawtucket, County of Providence, State of Rhode Island described in Schedule A.

2. The real property situated in the Town of Wilmington, County of Middlesex, Commonwealth of Massachusetts described in Schedule B.

3. The real property situated in the City of Attleboro and the Town of Seekonk, County of Bristol, Commonwealth of Massachusetts and registered in the Massachusetts Land Court described in Schedule C.

4. The real property situated in the City of Attleboro and the Town of Seekonk, County of Bristol

Commonwealth of Massachusetts described in Schedule D.

5. All machinery, equipment and other tangible personal property owned by Mortgagor which is located at the premises of Mortgagor situated on (i) the real property in the City of Pawtucket, County of Providence, State of Rhode Island described in Schedule A, (ii) the real property in the Town of Wilmington, County of Middlesex, Commonwealth of Massachusetts described in Schedule B, and (iii) the real property in the City of Attleboro and the Town of Seekonk, County of Bristol, Commonwealth of Massachusetts described in Schedules C and D; but excluding all office furniture, fixtures and equipment, all automobiles, trucks, trailers, tractors, tanks and tank-trailers, all manufacturing, shipping, transportation, office, warehouse and other business supplies, all raw materials, goods in process, finished merchandise and other inventory items, and all property hereafter acquired by Mortgagor of whatever nature.

Mortgagor covenants with Mortgagee that, so long as it is obligated under the Guaranty:

1. Mortgagor shall maintain, preserve and keep in full force and effect its corporate existence,

franchises, rights and privileges in Delaware and its license or qualification to do business as a foreign corporation in the States of Massachusetts and Rhode Island.

2. Mortgagor shall maintain the mortgaged property in the same condition as it exists on the date of this mortgage, usual wear and tear resulting from the utilization of such property, and damage or destruction by fire or other casualty excepted.

3. Mortgagor shall use the mortgaged property in the operation of its business, except for possible selective shutdowns of particular operations or general shutdowns which are temporary in nature, or which are caused by labor disputes or Acts of God.

4. Mortgagor shall punctually pay and discharge, or cause to be paid or discharged before the same become delinquent, all taxes, assessments and governmental charges and levies imposed upon Mortgagor or Mortgagor's income, profits, properties and assets or any part thereof, and all claims for labor, material and supplies which if unpaid might by law become a lien or charge upon any of the mortgaged properties, provided, however, that Mortgagor need not pay any such tax, assessment, charge or levy, or any such claim, the validity of which is, at the time, being contested in

good faith by appropriate proceedings promptly initiated and diligently conducted. Mortgagor further agrees to pay any ad valorem or excise tax that is imposed upon the mortgaged property, even though such tax may be by law imposed upon Mortgagee.

5. Mortgagor shall secure and maintain in force and effect, insurance coverage on the mortgaged property and the operations being conducted by Mortgagor, as described on Schedule hereto. Mortgagee shall be named as an additional insured in any such policies of insurance, as its interest may appear. Mortgagor shall deliver to Mortgagee true copies of all such insurance policies, and shall instruct the Insurer to afford Mortgagee 10 days' written notice prior to the cancellation of any thereof.

6. Notwithstanding any other provision of this Mortgage Deed, and without obtaining the approval or consent of Mortgagee, Mortgagor may sell or otherwise dispose of any of the items of personal property mortgaged hereunder, to the extent that the aggregate value of the items so sold or disposed of (determined on the basis of their book value as at July 31, 1968) between August 1 in any calendar year and July 31 in the following calendar year does not exceed \$100,000.

Without limiting the foregoing, Mortgagee shall, without further consideration, execute and deliver all such consents, releases or other documents as may be requested by Mortgagor to effect any such sale or disposition.

7. The failure of Mortgagor to comply with its obligations hereunder or under the Guaranty shall constitute a default. If there is a default, and Mortgagor fails to correct such default within 30 days after receipt of written notice thereof from Mortgagee, the entire obligation of Mortgagor under the Guaranty shall, at the option of Mortgagee be matured.

8. Any demand, notice or request by either party to the other shall be sufficiently given if delivered to the party intended to receive the same or if mailed by registered or certified mail addressed as follows:

Thompson Apex

505 Central Avenue

Pawtucket, Rhode Island

Attention: Mr. Norman M. Fain

Continental Oil Company

30 Rockefeller Plaza

New York, New York

Attention: Vice President and General Manager
Petrochemicals Department

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Either party may change its address at any time by notice in writing to the other.

9. No consent or waiver, expressed or implied, by Mortgagee or of any default by Mortgagor shall be construed as a consent or waiver to or of any other default.

10. In case any one or more of the provisions of this Mortgage are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

11. In the event of a default hereunder, Mortgagee shall have the statutory power of sale, as provided for in the laws of the State of Rhode Island with respect to the real property described in Schedule A, and the laws of the Commonwealth of Massachusetts with respect to the real property described in Schedules B, C and D, and with respect to the personal property mortgaged hereunder, shall have the rights afforded a Secured Party under the Uniform Commercial Code.

IN WITNESS WHEREOF, the Mortgagor has executed this Mortgage Deed and caused its corporate seal to be affixed hereto this day of , 1968.

THOMPSON APEX COMPANY

By _____

EXHIBIT D

THOMPSON APEX COMPANY
PRO FORMA
BALANCE SHEET AS AT JUNE 30, 1968

ASSETSCurrent Assets

Cash	1,850.00
Certificates of Deposit	85,000.00
Accounts and Notes Receivable	6,522,189.10
Merchandise Inventories	2,614,587.65
Other current assets	37,486.75
<u>Total Current Assets</u>	<u>9,261,113.50</u>

Fixed Assets

Property Plant & Equipment	13,032,777.00
Less Accumulated Depreciation	2,697,449.00
	<u>10,335,328.00</u>
<u>Total Assets</u>	<u>19,596,441.50</u>

LIABILITIES AND STOCKHOLDERS EQUITYCurrent Liabilities

Accounts Payable - Trade	1,136,600.36
Other accrued taxes	261,501.68
Other accrued liabilities	848,668.05
<u>Total Current Liabilities</u>	<u>2,246,770.09</u>

Stockholders Equity

Capital Stock	1,000.00
Capital Surplus	17,348,681.91
Retained Earnings	(10.50)
<u>Total Stockholders Equity</u>	<u>17,349,671.41</u>
<u>Total Liabilities and Stockholders Equity</u>	<u>19,596,441.50</u>

FINISHED GOODS INVENTORY UNIT PRICESPlasticizers

<u>TYPE</u>	<u>Cost</u>
DOP	\$.1646
DIOP	.1623
147	.1883
148	.1960
DDP	.1560
NODP	.1932
DTDP	.2265
141	.1956
102	.1918
175	.3282
185	.3546
DOA	.1907
DDA	.1786
200	.2202
FP3A	.2502
FP27	.2436
FP55	.2808
FP58	.2241
DHP	.1835
E64	.2698
E68	.2740
300	.2445
E54	.2390
301	.2529
XP-1122 (431)	.2570
XP-1143 (302)	.2313
XP-1144 (421)	.2400
XP-1167 (451)	.2869
XP-1171 (471)	.3504
Lauryl Chloride	.3948
Lauryl Peroxide	.8301

SCHEDULE A

THOMPSON APEX INSURANCE POLICIES

FIRST POLICY

Fireman's Mutual Insurance Company, Policy No. 25050

Coverage:

Schedule A - Property Damage

<u>Coverage Location</u>	<u>Amount</u>	<u>Rate</u>
Hebronville, Massachusetts	\$2,000,000	.647
Pawtucket, Rhode Island	1,508,000	.44
Pawtucket, Rhode Island	20,000	2.50
Pawtucket, Rhode Island	5,565,000	.38
Wilmington, Massachusetts	160,000	.542
Shaler Park, Illinois	350,000	3.75
Endicott, New York	55,000	.466
Mountain View, Georgia	100,000	1.35
Wilmington, California	25,000	1.59
Dallas, Texas	50,000	1.59
Detroit, Michigan	50,000	1.59

Schedule A - Item No. 2

Various locations	25,000	2.25
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Schedule A - Item No. 3

Various locations	225,000	.40
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Schedule B - Item No. 1

Business Interruption Coverage

Hebronville, Massachusetts	500,000	.388
Pawtucket, Rhode Island	500,000	.264
Pawtucket, Rhode Island	1,000,000	.228

Schedule B - Item No. 1A

Various locations	10,000	1.014
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Schedule C

Boiler and Machinery - Property Damage

Amount: Limit of Policy, No rate; Premium: \$1,220.

Schedule D

Boiler and Machinery - Business Interruption

Amount: Limit of Policy; No rate; Premium: \$2,424

Total coverage under policy: \$31,693,000

SCHEDULE A (cont'd)

SECOND POLICY

Insurance Company of North America, Policy no. ABN57400

Coverage

Traveling accident policy covering employees of Thompson Apex traveling on company business.

Limit of Coverage: \$100,000 per employee

SCHEDULE A (cont'd)

LAND, PLANT, PROPERTY, BUILDINGS, MACHINERY AND EQUIPMENT
OWNED BY THOMPSON APEX

1. Land:

All that land as indexed and described in the document entitled, "Rhode Island and Massachusetts Real Estate Owned by Continental Oil Company as of January 1, 1968," which has heretofore been delivered to PURCHASER.

2. Plant, Property, Buildings, Machinery and Equipment:

All that plant, property, buildings, machinery and equipment set forth in the appraisal by the Lloyd-Thomas Company dated March 22, 1968 relating to the facilities located at Pawtucket, Rhode Island and Hebronville and Wilmington, Massachusetts (5 vols.).

3. Franchise, Patent, Trademark and Royalty Agreements:

- a. Royalty free license to Apex Tire and Rubber Company from Rubatex Products, Inc. dated August 15, 1958 and relating to gas-expanded cellular products.
- b. License agreement dated April 29, 1960 to Apex Tire and Rubber Company from Fidelity Machine Corp., now a division of The Singer Co., relating to making articles of laminated structure and flexible tubing.
- c. An agreement between Thompson Chemical Company and Plastifay Kimya Endustrisi A.O. (a corporation of the Republic of Turkey) which was assigned to Continental Oil Company December 31, 1965. This agreement is basically a technical assistance agreement in the field of plasticizers, particularly certain phthalates, adipates, and epoxides. At Continental's option the field may be expanded.

The term of the agreement is for a period of 10 years from start-up of the Plastifay facilities.

Continental's obligations:

To supply Plastifay design and engineering of the production facility and production process with battery limits, drafts and specifications, and flow diagrams including future developments in the field of the agreement. The obligations

SCHEDULE A (cont'd)

except those relating to future developments, have been complied with. The agreement is to be exclusive for the period of the agreement.

Plastifay's obligations:

To pay royalties and submit samples of product for periodic testing.

A conjunct trademark agreement grants Plastifay the right to use the trademark "TRUFLEX" in conjunction with plasticizers manufactured under the Technical Assistance Agreement. This grant is exclusive within Turkey and grants no right to use the trademark on products shipped outside Turkey. This agreement terminates with the first agreement.

SCHEDULE A (cont'd)

LIST OF THOMPSON APEX RETIREMENT PLANS

1. Retirement Plan of Thompson Apex Company for Salaried Employees, Approved by Board of Directors Resolution of August 24, 1965, as amended, to become effective as of January 1, 1965.
2. Prior Service Retirement Plan for Hourly and Salaried Employees and Future Service Plan for Hourly Employees of Thompson Apex Company, Approved by Board of Directors Resolution of August 24, 1965, as amended, to become effective as of January 1, 1965.

SCHEDULE A (Cont'd)

OFFICERS & DIRECTORS

THOMPSON APEX COMPANY

Directors

J. E. Kircher, Chairman
Gordon A. Cain
Norman M. Fain
R. W. Gerwig
G. H. Hagle

Officers

Norman M. Fain
Victor J. Baxt
Joseph Fath
Herbert Malin
B. J. Bernhardt
Markus Royen
Roy M. Mays
John D. Morrow
Glen E. Downing
J. L. Johnston
P. J. Dominic
Margaret Elwein

President
Executive Vice President
Vice President
Vice President
Vice President
Vice President
Vice President
Treasurer
Secretary, Controller, Asst. Treasurer
Asst. Secretary & Asst. Treasurer
Assistant Secretary
Assistant Secretary

SCHEDULE A (Cont'd)

VEHICLES

Tractors

1 - 1962 Mack
2 - 1963 Mack
2 - 1965 Mack
2 - 1966 Mack
2 - 1967 Mack

Trailers

1 - 1947 Highway
1 - 1949 Gray M
4 - 1956 V & W
1 - 1957 V & W
2 - 1958 V & W
2 - 1959 V & W
2 - 1967 Trailmobile

Dry Bulk Tanks

1 - 1965 Butler

Trucks

1 - 1966 Dodge Panel
1 - 1966 Chevrolet 1/2 Ton

Tank Trailers

1 - 1942 Quaker
1 - 1959 Quaker
1 - 1965 Trailmobile

Automobiles

1 - 1965 Chrysler
1 - 1966 Chevrolet
1 - 1966 Plymouth
2 - 1967 Chevrolet
1 - 1967 Plymouth
1 - 1967 Lincoln Continental
1 - 1967 Buick
1 - 1968 Plymouth

SCHEDULE A (cont'd).

BANK ACCOUNTS AND AUTHORIZED SIGNATORIES

1. Dispersing Account
First National Bank and Trust Company, Ponca City, Oklahoma
No. 8-122-240
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.
2. Cash Receipts
Rhode Island Hospital Trust Company
No. 425-777
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.
3. Payroll Account
Rhode Island Hospital Trust Company
No. 429-555
Signatories: N.M. Fain
V.J. Baxt
H. Malin
J.D. Morrow
G.E. Downing
L. Robert Ledoux
R.D. Lacombe, Jr.

CERTIFICATES OF DEPOSIT - NON-INTEREST BEARING

Rhode Island Hospital Trust
Providence, Rhode Island

RE Payroll Account	CD #10978*	due 9/5/68	\$ 85,000
RE Deposit Account	CD #13797**		150,000

*In name of Continental Oil Company

**While this CD has reached maturity, we have not asked for the return of funds.

SCHEDULE A (cont'd)

Patents, Applications, Inventions, Trademarks,
Technical Information to be Assigned Thompson Apex Company
(Subject to the provisions of paragraph 6.7 of the Agreement)

Patents: (foreign equivalents are serial number unless otherwise designated)

Design 82,641 (11/16/64) -Weinberg, "Design Sheet for Shoe Soles and the Like"

U.S. 3,072,591 - Fath, "Mixed Esters of Trimethylol-alkane and Vinylchloride Resin Plasticized Therewith"

U.S. 3,270,063 - Fath, "Method of Making Primary Mercaptans"

Foreign Equivalents:

Australia 766/66 (1/24/66)

Belgium Patent 692,509 (3/15/67)

Great Britain Patent 1,060,898 (6/28/67)

Canada 950,253 (1/20/66)

France Patent 1,468,193 (12/26/66)

West German P 1568 334.8

Italy Patent 782,575

Japan 4,272/66 (1/26/66)

U.S. 3,085,678 - Fath, "Esters of Dicarboxylic Acids and Vinylchloride Resins Plasticized Therewith"

Foreign Equivalents:

Canada Patent 687,696

British Patent 919,809

U.S. 3,142,171 - Royen, "Apparatus for Performing Accelerated Aging Test on Elastomers"

Foreign Equivalents:

Canada Patent 689,801

British Patent 933,901

West German Patent 1,185,842

SCHEDULE A (cont'd)

Applications:

Serial No. 605,612 (12/29/67 - Fath, Chartier,
"Vinyl Tile Composition"

Foreign Equivalents:

Great Britain 54,650/67 (11/30/67)
Canada 006,640 (12/2/67)
France 134, 183 (12/28/67)
West German C 44,237 (12/23/67)
Holland 67.17,511 (12/21/67)
Ireland 1467/67 (12/4/67)
Italy 41,340 A/67 (12/11/67)
Japan 84,628/67 (12/28/67)
Luxembourg Patent 55,172 (3/8/68)

Serial No. 568,061 (7/26/66) - Fath and Deardorff,
"Poly (Organotin) Mercaptide Polymers and Resins
Stabilized Therewith"

Foreign Equivalents:

Great Britain 32,7641/67 (7/17/67)
Canada 996,269 (7/25/67)
France 115,763 (7/26/67)
Holland 67.10,306 (7/26/67)
Italy 38,356 A/67 (7/22/67)
West German P 1643 786.8 (7/25/67)

Serial No. 548,860 (5/10/66) - Schwab,
"Epoxy Stabilizers in Poly (Vinylchloride)"

Application reserving an irrevocable, nonexclusive, nontrans-
ferable, royalty free, worldwide license to use in polymeriza-
tion process to Thompson Apex Company:

Serial No. 729,451 (5/15/68) - Deardorff, Chesler
and Fath, "Novel Diacyl Peroxides" (no foreign
filing)

U.S. Trademarks

<u>Mark</u>	<u>Reg. No.</u> <u>(If Registered)</u>	<u>Date</u>	<u>Description of Product</u>
A-100			Tread rubber
A-110			Tread rubber
A-160			Tread rubber
Apex	443,037	7/5/49 (Class 35)	Tires and tubes
Apex and Eagle Design			House mark as well as Apex alone
Childs Head	675,413	3/17/59 (Class 6)	Antifreeze
Diamond Eagle			Tread rubber
Gold Eagle			Tread rubber

SCHEDULE A (cont'd)

U.S. Trademarks (cont'd)

<u>Mark</u>	<u>Reg. No.</u> <u>(If Registered)</u>	<u>Date</u>	<u>Description of Product</u>
Regal Eagle			Tread rubber
Duralite			Shoe sole material
Eskimo	585,680	2/16/54 (Class 6)	Antifreeze
Faciflex			Garden hose
Glyco-Lene	257,186	5/28/29 (Class 6)	Antifreeze
Glylene	257,107	5/28/29 (Class 6)	Antifreeze
Gly-O-Lene	257,187	5/28/29 (Class 6)	Antifreeze
Golden Arch	763,563	1/24/64 (Class 39)	Shoe sole units
Grip Rib	745,003	2/12/63 (Class 1)	Shoe soling material
Instex			Paint or pigment dispersent
Natural Drag			Tread rubber
Pacer			Tread rubber
Premium Plus			Tread rubber
Sioxol	654,021	11/5/57 (Class 15)	Lubricant for Camelback
Sol-Tex	554,611	2/12/52 (Class 50)	Synthetic copolymer
Stop-Skid	Supp. Reg. 834,497	8/29/67 (Class 35)	Tread rubber
Superlite	579,833	9/8/53 (Class 35)	Garden hose
Tip-Top	846,896	4/2/68 (Class 6)	Freezeproof mixture, alcohol
Tip-Top and Design	227,919	5/17/27 (Class 6)	Freezeproof mixture alcohol
Tombro	545,533	7/24/51 (Class 52)	Cleaner for Carpets, etc.
Truflex	782,260	12/29/64 (Class 6)	Plasticizer
Trulite	603,612	3/22/55 (Class 35)	Garden hose
Truox	852,127	(Class 5)	Lauroyl peroxide
Unicure	806,945	4/12/66 (Class 35)	Tread rubber
Vitalized Mileage Master		JULY 9, 1968.	Tread rubber
TA IN DIAMOND DESIGN			GENERAL HOUSEMARK

ADD TRUOX TO
ASSIGNMENT
(ONLY REGISTERED
EOLISTED)

SCHEDULE A (Cont'd)

Foreign Trademarks and Trade Names

<u>Mark</u>	<u>Year</u>	<u>No.</u>
Apex (Belgian Congo)	1963	6,324
Duralite (Belgian Congo)	1963	6,323
Apex (Belgium)	1963	86,817
Duralite (Belgium)	1963	86,816
Apex Tire and Rubber Co. (Venezuela)	1960	4,257-D
Duralite (Venezuela)	1958	3,369-F
Faciflex (Venezuela)	1958	3,368-F
Apex (Venezuela)	1958	3,367-F
Apex and Design (Great Britain)	9/7/60	810,427
Duralite (Great Britain)	9/7/60	810,425

Foreign Trademarks Being Handled by Associates

<u>Mark</u>	<u>Country</u>	<u>Associate</u>
Apex	Dominican Republic	Cleveland
Apex and Eagle Design	Dominican Republic	Cleveland
Diamond Eagle	Dominican Republic	Octrooibureau
Gold Eagle	Dominican Republic	Octrooibureau
Regal Eagle	Dominican Republic	Octrooibureau
Apex	El Salvador	Cleveland
Apex and Eagle Design	El Salvador	Cleveland
Diamond Eagle	El Salvador	Octrooibureau
Regal Eagle	El Salvador	Octrooibureau
Gold Eagle	El Salvador	Octrooibureau
Apex and Eagle Design	Burundi	Baker-McKenzie
Apex and Eagle Design	Rwanda	Baker-McKenzie
Apex and Eagle Design	Belgian Congo	Baker-McKenzie
Truflex	Turkey	Baker-McKenzie

Technical Information and Know-How

Copies of all reports, drawings, blueprints, operating data, procedures, etc., relating to the Hebronville, Mass., and Pawtucket, R.I., facilities possessed by Continental at the time of transfer will be given Thompson Apex Company. Know-how to be assigned to Thompson Apex Company includes, but is not limited to, the information disclosed in the foregoing documents.

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
NATURAL PREMIUM (CRUDE)	TREAD RUBBER
DIAMOND EAGLE - POLYBUTADIENE	TREAD RUBBER
STOP SKID (ABRASIVE)	TREAD RUBBER
PREMIUM PLUS A-160	TREAD RUBBER
DIAMOND EAGLE A-140	TREAD RUBBER
REGAL EAGLE A-110	TREAD RUBBER
STOP SKID A-105AB	TREAD RUBBER
GOLD EAGLE A-100	TREAD RUBBER
PACER A-90	TREAD RUBBER
PREMIUM ABRASIVE	TREAD RUBBER
CORONET	GARDEN HOSE
SUPERFLEX	GARDEN HOSE
TRITON	GARDEN HOSE
AP PRE-FIT SOLES	SHOE MATERIALS
A-FLEX	SHOE MATERIALS
ASTRO-FLEX	SHOE MATERIALS
ASTRO-LITE	SHOE MATERIALS
AVANTI NO. 1	SHOE MATERIALS
AVANTI NO. 2	SHOE MATERIALS
AVANTI PRE-FIT SOLES	SHOE MATERIALS
BUFFALO	SHOE MATERIALS
CRADDOCREPE	SHOE MATERIALS
ELITE	SHOE MATERIALS

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
ENGLISH RIB	SHOE MATERIALS
GRIP-RIB	SHOE MATERIALS
GRIP-RIB III	SHOE MATERIALS
HYDA	SHOE MATERIALS
KIKI	SHOE MATERIALS
LETHAPEX	SHOE MATERIALS
MALAYA PASSOVER	SHOE MATERIALS
NITRIVYN	SHOE MATERIALS
PLAZA	SHOE MATERIALS
PLUME	SHOE MATERIALS
PLUME II	SHOE MATERIALS
RIB-TIDE	SHOE MATERIALS
RIO	SHOE MATERIALS
RIVIERA	SHOE MATERIALS
ROMA PRE-FIT SOLES	SHOE MATERIALS
SAFARI	SHOE MATERIALS
SASSY	SHOE MATERIALS
SLIM RIB	SHOE MATERIALS
SNO-TRED	SHOE MATERIALS
SUPERPEX	SHOE MATERIALS
SUPERTUF	SHOE MATERIALS
SUPERVYN	SHOE MATERIALS
TR. PREFIT SOLE	SHOE MATERIALS

SCHEDULE A (Cont'd)

<u>Mark</u>	<u>Description of Product</u>
TREVI	SHOE MATERIALS
TUMBLETILE	SHOE MATERIALS
TUMBLETILE III	SHOE MATERIALS
ULTRAPEX	SHOE MATERIALS
UNTRAVYN	SHOE MATERIALS
VYNAPEX	SHOE MATERIALS
WELTAPEX	SHOE MATERIALS

(None recorded as registered with Federal Government)

EXHIBIT I

GARDEN HOSE SALES AGREEMENT

AGREEMENT entered into the day of , 1968
by and between COFOCO Plastics, a division of Continental Oil
Company, with an operating office at 2045 Warrensville Center
Road, Cleveland, Ohio 44122 ("SELLER"), and Thompson Apex
Company, with an operating office at 505 Central Avenue, Pawtucket,
Rhode Island, 02862 ("BUYER").

WHEREAS, SELLER has a plant at Aberdeen, Mississippi,
for the production of garden hose and BUYER wishes to purchase
such plant's entire output of garden hose, it is agreed between
BUYER and SELLER as follows:

SECTION 1

CURRENTLY

SELLER grants BUYER the right to purchase the entire
output of garden hose from SELLER's Aberdeen plant. The
capacity of this plant is estimated to be 1,750,000 pieces of
garden and/or sprinkler hose a year. BUYER agrees to buy not
less than 75% of said plant's capacity output of garden hose
each contract year. BUYER further agrees that the product mix
of the types of hose purchased will be essentially the same as
that now being sold, as shown in Exhibit I.

SECTION 2

CURRENTLY

The garden hose being delivered shall be the quality
and meet the specifications of the hose delivered by the Aberdeen
plant during the period August 1, 1967 to date of this Agreement.

SECTION 3

PRICE

The F.O.B. SELLER's plant prices for the different types of garden hose shall be as listed in Exhibit I. Exhibit II shows the cost of the different elements of the production of hose used in arriving at the price in Exhibit I. If BUYER requires any different specifications or packaging, the hose prices shall be adjusted upward or downward, above or below the cost shown in Exhibit II, by the amount of the cost of the change. The cost of any adjustments for defective hose in excess of 2.2% of the value of shipments shall be charged to SELLER.

SECTION 4

TERMS

SELLER shall bill BUYER for hose as it is shipped. Payment shall be net ten days.

SECTION 5

STORAGE

SELLER agrees to provide storage in Aberdeen for a maximum of 100,000 lengths of hose. SELLER will receive, store and load rubber garden hose for BUYER as it is presently doing at no cost to BUYER.

SECTION 6

SCHEDULE

BUYER will provide SELLER with a schedule of its requirements of garden hose for a period of at least thirty days in advance, giving the necessary information on types so

that SELLER can operate its plant at a minimum of 75% of capacity. Any changes in this schedule shall be given the BUYER at least seven days in advance.

SECTION 11

SUPPLY OF LABELS AND FITTINGS

BUYER may on due notice to SELLER provide labels and fittings. If BUYER provides such labels and fittings, they will be billed to SELLER at a price corresponding to the costs used for these items in Exhibit II. The delivery of these labels and fittings will be such as to permit the production schedules required by BUYER.

SECTION 8

RECORDS

SELLER will maintain records of the inventories of hose stored for BUYER's account and provide weekly and monthly summaries of these inventories as required. SELLER will ship hose as directed by BUYER and SELLER will give BUYER daily all pertinent shipping information. Within ten days of receipt of SELLER's invoice, BUYER will reimburse SELLER for any prepaid freight charges paid by SELLER on BUYER's behalf.

SECTION 9

TERM

This Agreement shall commence on August 1, 1968 and continue to August 1, 1970 and thereafter from August 1 to August 1 of each successive year until terminated by either

party by prior written notice given at least one year prior to the August 1 date starting the last contract year.

SECTION 10

FORCE MAJEURE

Neither party shall be liable to the other for failure or delay in making or accepting deliveries hereunder to the extent that such failure or delay is due to war, fire, flood, strike, labor trouble, accident, riot, act of governmental authority, act of God, or other contingencies beyond the control of the affected party which interfere with production, supply or transportation of the material covered by this Agreement or with the supply of any raw material used in connection therewith, provided that in no event shall BUYER be relieved of the obligation to pay in full for material delivered hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

CONTINENTAL OIL COMPANY

By _____

THOMPSON APEX COMPANY

By _____

EXHIBIT #1

Hose Code Part #	Price	Production (Pcs) -- <u>7/1/67 - 6/30/68</u>	Total Value \$
9565-25	.82	460	\$375
-50	1.30	39,785	51,597
-75	1.75	306	534
-100	2.24	90	201
9541-50	1.47	-	-
9501-50	2.31	8,018	18,522
-75	3.26	582	1,897
-100	4.24	318	1,348
9500-50	1.71	895	1,530
8565-25	.71	3,740	2,641
-50	1.10	202,475	221,811
-75	1.48	12,341	18,299
-100	1.87	720	1,343
8541-50	1.15	5,380	6,204
8501-5	.29	30,600	9,027
-25	1.09	2,320	2,523
-50	1.84	50,829	93,449
-75	2.59	4,734	12,249
-100	3.33	288	959
8500-50	1.48	32,470	48,208
7565-60	.90	63,170	56,802
-75	1.05	7,087	7,426
-50	.80	467,231	373,177
-25	.53	7,565	4,036
7541-50	.86	17,980	15,405
7501-50	1.34	95,013	126,927
-60	1.53	8,290	12,691
-75	1.83	2,455	4,480
-25	.84	1,150	964
7500-50	1.17	53,205	62,058
5565-25	.51	3,000	1,529
-50	.76	102,165	77,553
-75	.99	200	198
4565-25	.47	11,350	5,325
-50	.68	410,620	278,359
-60	.73	23,425	17,148
6548-25	.51	800	407
-50	.76	2,165	1,643
23-25	.76	26,925	20,357
-50	1.03	50,600	52,407
		<u>1,751,514 pcs.</u>	<u>\$1,612,392</u>

EXHIBIT II
CONOCO GARDEN HOSE
STANDARD COSTS
MAY - 1968

	CORE RAW MATERIAL	JACKET RAW MATERIAL	FITTINGS R/M COST	BRAID R/M COST	CORE EXT. COST	JACKET EXT. COST	BRAIDING COST	FINISHING COST	TOTALS	MFG. UNIT COST	TOTAL UNIT COST	THOMPSON APEX STD. COST
9565-25	28.70	9.75	23.31	--	2.33	2.33	--	10.51	76.93	.77	.79	.82
-50	57.40	19.50	23.31	--	4.66	4.66	--	12.64	122.17	1.22	1.27	1.30
-75	86.10	29.25	23.31	--	6.99	6.99	--	15.84	168.48	1.68	1.76	1.75
-100	114.80	39.00	23.31	--	9.32	9.32	--	18.85	214.60	2.15	2.24	2.24
9541-50	68.25	19.57	23.89	--	5.83	5.83	--	13.50	136.87	1.37	1.43	1.47
9501-25	58.13	14.75	23.89	6.15	2.91	1.80	9.32	10.51	127.46	1.27	1.29	1.34
-50	116.26	29.49	23.89	12.30	5.83	3.61	18.64	13.50	223.52	2.24	2.27	2.31
-75	174.38	44.24	23.89	18.45	8.74	5.41	27.96	17.21	320.28	3.20	3.25	3.26
-100	232.51	58.99	23.89	24.60	11.65	7.22	37.28	21.22	417.36	4.17	4.24	4.24
9500-50	100.20	29.49	23.89	12.30	5.13	3.61	18.64	13.50	206.76	2.07	2.11	1.71
3565-25	21.05	8.36	21.37	--	1.74	1.74	--	9.50	63.76	.64	.66	.71
-50	42.10	16.72	21.37	--	3.50	3.50	--	10.51	97.70	.98	1.01	1.10
-75	63.15	25.07	21.37	--	5.24	5.24	--	12.64	132.71	1.33	1.38	1.48
-100	84.20	33.43	21.37	--	6.99	6.99	--	15.84	168.82	1.69	1.76	1.87
3541-50	50.10	16.78	21.37	--	4.20	4.20	--	11.20	107.85	1.08	1.12	1.15
3501-5	8.36	2.51	21.37	1.23	.41	.28	1.33	4.75	40.24	.40	.41	--
-25	41.78	12.55	21.37	6.15	2.04	1.40	6.64	9.98	101.91	1.02	1.03	1.09
-50	83.56	25.10	21.37	12.30	4.08	2.80	13.28	11.20	173.69	1.74	1.76	1.84
-75	125.34	37.65	21.37	18.45	6.12	4.19	19.92	13.50	246.54	2.47	2.50	2.59
-100	167.12	50.20	21.37	24.60	8.16	5.59	26.56	17.21	320.81	3.21	3.26	3.33
3500-50	72.04	25.10	21.37	12.30	3.73	2.80	13.28	11.20	161.82	1.62	1.65	1.48
'565-60	26.04	18.28	15.01	--	2.66	2.66	--	10.51	75.16	.75	.78	.90
'565-50	21.70	15.18	15.01	--	2.21	2.21	--	9.50	65.81	.66	.68	.80
-60	26.04	18.22	15.01	--	2.66	2.66	--	10.51	75.10	.75	.78	.90
'565-25	11.18	6.97	15.01	--	.93	.93	--	8.61	43.63	.44	.45	.53
-50	22.35	13.93	15.01	--	1.86	1.86	--	9.50	64.51	.65	.67	.80
-60	26.82	16.72	15.01	--	2.24	2.24	--	10.51	73.54	.74	.77	.90
-75	33.53	20.90	15.01	--	2.80	2.80	--	11.88	86.92	.87	.91	1.05
541-50	28.71	13.98	15.01	--	2.45	2.45	--	9.50	72.10	.72	.75	.86
501-50	46.02	21.82	20.52	10.25	2.45	2.33	11.65	9.98	125.02	1.25	1.28	1.34
-60	55.22	26.19	20.52	12.30	2.94	2.80	13.98	11.20	145.15	1.45	1.48	1.53

EXHIBIT II
CONOCO GARDEN HOSE
STANDARD COSTS
MAY - 1968

HOSE CODE	CORE RAW MATERIAL	JACKET RAW MATERIAL	FITTINGS R/M COST	BRAID R/M COST	CORE EXT. COST	JACKET EXT. COST	BRAIDING COST	FINISHING COST	TOTALS	MFG. UNIT COST	TOTAL UNIT COST	THOMPSON APEX STD. COST
7501-25	23.01	10.04	20.52	5.13	1.22	1.17	5.83	9.06	75.98	.76	.78	.84
-50	46.02	20.08	20.52	10.25	2.45	2.33	11.65	9.98	123.28	1.23	1.26	1.34
-75	69.03	30.12	20.52	15.38	3.67	3.50	17.48	12.64	172.34	1.72	1.76	1.83
7500-25	19.84	10.04	20.52	5.13	1.11	1.17	5.83	9.06	72.70	.73	.75	.75
-50	36.67	20.08	20.52	10.25	2.21	2.33	11.65	9.98	116.69	1.17	1.19	1.17
-75	59.51	30.12	20.52	15.38	3.32	3.50	17.48	12.64	162.47	1.62	1.66	1.57
5565-25	9.73	5.92	14.69	--	.82	.82	--	8.24	40.22	.40	.41	.51
-50	19.45	11.84	14.69	--	1.63	1.63	--	9.06	58.30	.58	.61	.76
-75	29.18	17.76	14.69	--	2.45	2.45	--	11.20	77.73	.78	.81	.99
4565-25	6.05	4.88	14.69	--	.70	.70	--	7.28	34.30	.34	.35	.47
-50	12.10	9.75	14.69	--	1.40	1.40	--	8.61	47.95	.48	.50	.68
23-25	20.61	--	26.96	--	1.34	--	--	12.64	61.55	.62	.63	.76
-50	41.22	--	26.96	--	2.68	--	--	14.67	85.53	.86	.88	1.03

7/11/68

Stamped

September 12, 1968

Addressed to

Mr. Gordon A. Cain,
Vice President
Continental Oil Company
30 Rockefeller Plaza
New York, New York 10020

RE: Continental Oil Company et al
Docket Number C1270

Dear Mr. Cain:

The Commission has approved Elmgrove Corporation and Olin Mathieson Chemical Corporation as purchasers of the Thompson-Apex businesses (acquired from Thompson Chemical Corporation and Apex Tire and Rubber Company) pursuant to the terms and conditions of the purchase agreements forwarded with your letter of July 26, 1968, and in accordance with the provisions of the order issued in the above-referenced matter on November 21, 1967, subject to the following conditions:

1. That the Olin Mathieson Chemical Corporation's capital shares received by Continental Oil in part payment for the portion of the above business purchased by Olin shall not be voted while owned by Continental Oil Company.
2. That Continental Oil will specifically agree to the above specification in writing within ten (10) days of the receipt of this communication.

The Commission has entirely relied upon the information submitted by Continental Oil and its approval is conditioned upon this information being accurate and complete.

By direction of the Commission.

Joseph W. Shea,
Secretary

Appendix F

TEKNOR APEX COMPANY

M E M O R A N D U M

TO: Norman Beauchene
Harry Dorsey
Tony Frateschi
Dave Hogan
Michael Jaroska
Doug Powell

DATE: August 7, 1987

FROM: Bob Sutherland

SUBJECT: Record Retention

In general, our documents fall into two broad classes as below:

Group 1 - General ledgers, journal entries, LIFO work papers and calculations, financial statements and tax returns - permanent records, to be retained indefinitely.

Group 2 - Detailed documents, including accounts payable invoices, freight bills, production copies of sales orders and signed bills of lading to be retained five full years, each year stored as a unit, plus the partial year since the last annual storage. (This means up to six years at the time of the annual purge). The technical IRS requirement is three years after the due date of the tax return, which in effect means nearly four years. We have been retaining the fifth year for accounts payable invoices, as a matter of practice. Therefore, this is not a change in the way we have been operating. In addition, we should retain other detailed documents five years also.

RLS/dad

10/30/00
change to
7y's per Jeanne
Carmier.
To cover
for extended
period in Tenn.
R. L. S.

Appendix G

Record Retention review December 2005

N. Kaczowka

Guidelines used for reviewing old records up in record retention

JVs	Are to be kept forever FY2002 and prior are being moved to Annex
SS171	Approved Vendor by Item are kept forever If we should ever need to identify who supplied us with a raw material item, this would assist in identifying?
Physical Inventory records	Keep until IRS audit year has been closed. Tax Department can supply information as to what years are closed. Currently years open for IRS are 1999 to present Therefore Phy Inv 1998 and prior can be destroyed
Physical inventory tags	3 years
LIFO	Information is to be kept forever Majority of data is found in cabinet in Record retention area
DCS	Domestic Cost of Sales kept for 7 years
BOM	Not required to keep. Physical Inventory reports provide year end cost. Kept last 3 years
Stock Status ex SS150	Not required to keep. Kept last 3 years.
Production Rep MP60,61 etc	Kept last 7 years
General Ledgers	Permanent
A/R Agings	7 years
A/P Distribution	7 years
Financial Statements	Permanent
Property records FAS records	Permanent
Cancel checks	Permanent to support taxes, purchases of property, special contracts etc.
Audit reports of accounts	PBCs are kept permanent
Invoices to customers	7 years
Upstairs vs Annex	For the most part, FY2002 and prior were moved to Annex

I have suggested Office Service refuse to except any boxes with expiration dates



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MA 02114-2023

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

February 24, 2006

Bret W. Jedele, Esq. (for Teknor Apex Company, Inc.)
Chace, Ruttenberg & Freeman, LLP
One Park Row, Suite 300
Providence, RI 02903

Re: Request for Information Pursuant to Section 104 of CERCLA for the Shpack Landfill
Superfund Site

Dear Mr. Jedele:

This letter seeks your cooperation in providing information and documents relating to the environmental conditions at, and cleanup of, the Shpack Landfill Superfund Site in Norton and Attleboro, Massachusetts ("Site").

The United States Environmental Protection Agency ("EPA") is investigating the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. This investigation includes an inquiry into the identification, nature, source, and quantity of materials transported to or generated, treated, stored, or disposed of at the Site. EPA is also seeking information concerning those persons responsible for the cleanup of the Site and their ability to undertake or finance that cleanup.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), Teknor Apex Company, Inc. is hereby requested to respond to the Information Request set forth in the Enclosure to this letter.

While EPA seeks your voluntary cooperation in this investigation, compliance with the Information Request is required by law. Failure to provide a complete truthful response to this Information Request within thirty (30) days of your receipt of this letter, or to adequately justify such failure to respond, may subject you to an enforcement action by EPA pursuant to Section 104(e) of CERCLA. This provision permits EPA to seek the imposition of penalties of up to thirty-two thousand five hundred dollars (\$32,500) for each day of non-compliance.

Please note that responses which are incomplete, ambiguous, or evasive will be treated as complete non-compliance with this Information Request. Also be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Information Request should be mailed to:

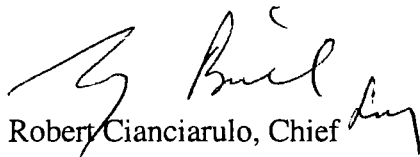
U.S. Environmental Protection Agency
Barbara O'Toole (HBS)
Search & Cost Recovery Section
Office of Site Remediation & Restoration
1 Congress Street, Suite 1100
Boston, MA 02114-2023

If you have general questions concerning the Site or this Information Request, please contact Melissa Taylor, Remedial Project Manager at (617) 918-1310. If you have any legal questions, please contact Audrey Zucker, Senior Enforcement Counsel, U.S. Environmental Protection Agency, Region 1 Office of Environmental Stewardship, 1 Congress Street (SES), Boston, MA 02114-2023, or at (617) 918-1788.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Cianciarulo", is written over the printed name.

Robert Cianciarulo, Chief
MA Superfund
Office of Site Remediation & Restoration

Enclosures

cc: Audrey Zucker, EPA Office of Environmental Stewardship
Melissa Taylor, EPA Remedial Project Manager
Barbara O'Toole, EPA Search & Cost Recovery

ENCLOSURE A
INFORMATION REQUEST FOR
SHPACK LANDFILL SUPERFUND SITE

* **Period Being Investigated:** *

* **For Dumont Parcel - 1946 through 1965** *
* **For Shpack Parcel - 1946 through 1975** *
* *

In addition to the questions which follow, this enclosure includes a declaration, a site description, detailed instructions for responding to this request, and definitions of words such as "Respondent," "Site," "Dumont Parcel", "Shpack Parcel," "identify," and "waste," used in the questions. These materials appear at the end of the questions; please refer to them in answering all questions. Of particular importance:

- Answer each question with respect to the period being investigated identified in each question unless the question indicates otherwise.
- Answer all questions completely in accordance with the definitions and instructions.
- Complete the enclosed declaration.
- For each question, identify all persons and documents relied upon in the preparation of the answer.
- All information provided for which you are making a claim of business confidentiality or which contains personal privacy information should be contained on separate sheets and clearly marked as confidential or private.
- This request imposes a continuing obligation upon you to submit responsive information discovered after your original response is submitted to EPA.

INFORMATION REQUEST QUESTIONS

1. Generators - General: Identify all persons (“Generators”), including you, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials at or to the Dumont Parcel (see Definitions) during the period from 1946 through 1965. In addition, identify:
 - a. The persons with whom the Generators made such arrangements.
 - b. Every date or the approximate dates on which each Generator made such arrangements;
 - c. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all hazardous materials involved in each such arrangement;
 - d. In general terms, the nature and quantity of the non-hazardous materials involved in each such arrangements;
 - e. The owners of the hazardous materials involved in each such arrangement;
 - f. All tests, analyses, analytical results or manifests concerning each hazardous material involved in such transactions;
 - g. The precise location at which each hazardous material involved in such transactions actually was disposed or treated;
 - h. Who selected the Dumont Parcel as the location at which hazardous materials were to be disposed or treated;
 - i. What was done to the hazardous materials once they were brought to the Dumont Parcel;
 - j. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.
2. Generators - General: Identify all Generators, including you, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials at or to the Shpack Parcel (see Definitions) during the period from 1946 through 1975. In addition, identify:
 - a. The persons with whom the Generators made such arrangements.

- b. Every date or the approximate dates on which each Generator made such arrangements;
- c. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all hazardous materials involved in each such arrangement;
- d. In general terms, the nature and quantity of the non-hazardous materials involved in each such arrangements;
- e. The owners of the hazardous materials involved in each such arrangement;
- f. All tests, analyses, analytical results or manifests concerning each hazardous material involved in such transactions;
- g. The precise location at which each hazardous material involved in such transactions actually was disposed or treated;
- h. Who selected the Shpack Parcel as the location at which hazardous materials were to be disposed or treated;
- i. What was done to the hazardous materials once they were brought to the Shpack Parcel;
- j. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.

3. Respondent's Operations:

NOTE: All parts of Question 3 should be answered with respect to the years 1946 through 1975.

- a. Provide the complete addresses of Respondent's plants and other buildings or structures where Respondent carried out its operations, excluding those locations where only clerical/office work was performed, within 30 miles of the Site. **Unless otherwise indicated, all of the following questions in this Request for Information refer to these operations.**¹
- b. Provide a brief description of the nature of Respondent's operations at each

¹ If the Respondent has more than three separate places of business in this area, please contact the EPA representative listed in the text of the cover letter to determine the appropriate scope of your response.

location including:

- i. the date such operations commenced and concluded; and
 - ii. the types of work performed, including but not limited to the industrial, chemical, or institutional processes undertaken.
- c. If the nature or size of Respondent's operations changed over time, describe those changes and the dates they occurred.
- d. List the products Respondent manufactured, recycled, recovered, treated, or otherwise processed in these operations.
- e. In general terms, list the types of raw materials used in Respondent's operations.
- f. Describe the cleaning and maintenance of the equipment and machinery involved in these operations, including but not limited to:
 - i. the types of materials used to clean/maintain this equipment/machinery; and
 - ii. the monthly or annual quantity of each such material used.
- g. Describe the methods used to clean up spills of liquid or solid materials during Respondent's operation, including but not limited to:
 - i. the types of materials spilled in Respondent's operations;
 - ii. *the materials used to clean up those spills;*
 - iii. the methods used to clean up those spills; and
 - iv. where the materials used to clean up those spills were disposed of.

4. Respondent's Wastes and Waste Streams (including By-Products) (1946 through 1965):

NOTE: All parts of Question 4 should be answered with respect to the years 1946 through 1965, and with respect to each of Respondent's facilities identified in your response to Question 3.

- a. Complete the enclosed "Information Request Waste Survey for 1946 through 1965," checking each substance present in Respondent's wastes or by-products and providing all requested information for each such substance that is checked.
- b. Identify (see Definitions) the person(s) responsible for collecting and managing each type of waste.
- c. Describe how each type of waste was collected and stored at Respondent's operation prior to disposal/recycling/sale/transport, including:
 - i. the type of container in which each type of waste was placed/stored; and

- ii. where each type of waste was collected/stored.
- 5. Answer all parts of Question 4 with respect to the years 1966 through 1975, and complete the enclosed "Information Request Waste Survey for 1966 through 1975" with respect to each of Respondent's facilities identified in response to Question 3.
- 6. Respondent's Disposal/Treatment/Storage/Recycling/Sale of Waste (including By-Products) (1946 through 1965):

NOTE: All parts of Question 6 should be answered with respect to the years 1946 through 1965, and with respect to each of Respondent's facilities identified in your response to Question 3.

ALSO NOTE: Your response to questions in this section must refer to all locations, including but not limited to the Site, to which Respondent sent its wastes.

- a. Describe the containers used to take each type of waste from Respondent's operation, including but not limited to:
 - i. the type of container (e.g. 55 gal. drum, dumpster, etc.);
 - ii. *the colors of the containers;*
 - iii. any distinctive stripes or other markings on those containers;
 - iv. any labels or writing on those containers (including the content of those labels);
 - v. whether those containers were new or used; and
 - vi. if those containers were used, a description of the prior use of the containers.
- b. For each type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling.
- c. Provide copies of such contracts and other documents reflecting such agreements or arrangements.
- d. State where Respondent sent each type of its waste for disposal, treatment, or recycling.
- e. Identify (see Definitions) all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).
- f. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.

- g. For each type of waste specify which Waste Carrier picked it up.
- h. For each type of waste, state how frequently each Waste Carrier picked up such waste.
- i. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
- j. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.
- k. Provide copies of all documents containing information responsive to the previous seven questions.
- l. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
 - i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
 - ii. names or markings on the vehicles; and
 - iii. the color of such vehicles.
- m. Identify (see Definitions) all of each Waste Carrier's employees who collected Respondent's wastes.
- n. Indicate the ultimate disposal/recycling/treatment location for each type of waste.
- o. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.
- p. Describe how Respondent managed pickups of each waste, including but not limited to:
 - i. the method for inventorying each type of waste;
 - ii. the method for requesting each type of waste to be picked up;
 - iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
 - iv. the identity of (see Definitions) Respondent's employee who paid the bills; and
 - vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- q. Identify (see Definitions) the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.

- r. State the basis for and provide any documents supporting the answer to the previous question.
- 7. Answer all parts of Question 6 with respect to the years 1966 through 1975.
- 8. Sources of Information: Identify (see Definitions) all persons, including, but not limited to, current and former employees of the Respondent, who could reasonably be expected to have knowledge or information concerning Respondent's operations and hazardous material handling, storage and disposal practices during the years 1946 through 1975, for all facilities identified in your response to Question 3 above. For each person, state the reasons why such person could be expected to have such knowledge, including the nature and dates of involvement with Respondent or the Site.
- 9. Respondent's Disposal of Waste Associated with the Thompson Chemical Facility Explosion.

NOTE: The following questions pertain to the explosion and ensuing fire at the Thompson Chemical Company facility in Hebronville, MA in 1964, and the disposal of wastes and debris associated with the explosion and fire.

- a. If not included in answers to previous questions, identify the location(s) at which debris and wastes associated with the 1964 explosion and fire at Thompson Chemical were disposed.
 - b. If not included in answers to previous questions, for each type of debris or waste (including by-products) associated with the 1964 explosion and fire, identify the nature and chemical composition of each such waste.
 - c. If not included in answers to previous questions, identify the individuals and/or companies that collected or disposed of waste or debris associated with the 1964 explosion and fire.
10. General Information:

NOTE: All questions in this section refer to the present time unless otherwise indicated.

- a. Provide the full legal name and mailing address of the Respondent.
- b. For each person answering these questions on behalf of Respondent, provide:
 - i. full name;
 - ii. title;
 - iii. business address; and
 - iv. business telephone number and FAX machine number.

- c. Provide the names of all Superfund sites in Region I (New England) for which Respondent has received notification of its potential liability from EPA and the dates of such notification(s).
- d. Provide the names of all Superfund sites in Region I (New England) for which Respondent has received a request for information from EPA.
- e. If Respondent is a corporation, provide:
 - a. the date of incorporation;
 - b. state of incorporation; and
 - c. agent for service of process.
- f. If Respondent is, or was at any time during the period being investigated, a subsidiary of, otherwise owned or controlled by, otherwise affiliated with another corporation or entity, then describe the nature of each such corporate relationship, including but not limited to:
 - a. a general statement of the nature of the relationship;
 - b. the dates such relationship existed;
 - c. the percentage of ownership of Respondent that is held by such other entity; and
 - d. for each such affiliated entity provide the names and complete addresses of its parent, subsidiary, and otherwise affiliated entities.
- g. If Respondent no longer exists as the same legal entity it was during the period being investigated because of transactions involving mergers or asset purchases, provide:
 - 1. the title and dates of the transactions and copies of documents that embody the terms of such transactions;
 - 2. the identities of the seller, buyer, and any other parties to such transactions;
 - 3. a brief statement describing the nature of the mergers or asset purchases; and
 - 4. a brief statement describing and copies of documents embodying any/all indemnification agreements.
- h. Is Teknor Apex Company, Inc. the successor to all liabilities, including those under CERCLA, of the Thompson Chemical Company facilities in Hebronville, MA and Pawtucket, RI? Fully describe the nature and date of any relevant sale and/or transaction describing the relationship between you or any of your predecessors and the Thompson Companies, including Thompson Chemical Company, and its facilities in Hebronville, MA and Pawtucket, RI. Provide documents evidencing such relationship.
- i. Is Teknor Apex Company, Inc. the successor to all liabilities, including those under

CERCLA, of the Apex Tire and Rubber Companies. Fully describe the nature and date of any relevant sale and/or transaction describing the relationship between you or any of your predecessors and the Apex Tire and Rubber Companies. Provide documents evidencing such relationship.

11. Information About Others

- a. If you have information concerning the operation of the Site or the source, content or quantity of materials placed/disposed at the Site which is not included in the information you have already provided, provide all such information.
- b. If not already included in your response, if you have reason to believe that there may be persons, including, but not limited to, persons currently or formerly employed by Respondent, who are able to provide a more detailed or complete response to any of these questions or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
- c. If not already provided, identify all persons, including Respondent's current and former employees, who have knowledge or information about the generation, use, purchase, treatment, storage, disposal, placement or other handling of materials at, or transportation of materials to, the Site.

12. Compliance with This Request

- a. Describe all sources reviewed or consulted in responding to this request, including but not limited to:
 - i. the names of all individuals consulted;
 - ii. the current job title and job description of each individual consulted;
 - iii. the job title and job description during the period being investigated of each individual consulted;
 - iv. whether each individual consulted is a current or past employee of Respondent;
 - v. the names of all divisions or offices of Respondent for which records were reviewed;
 - vi. the nature of all documents reviewed; and
 - vii. the locations where those documents reviewed were kept prior to review; and
 - viii. the location where those documents reviewed are currently kept.
- b. Please produce a copy of all documents which relate to, refer to, or concern any information requested or identified in this Request for Information. For all documents that have been destroyed, provide the date the document was destroyed and identify the individual responsible for its destruction.

- c. Describe your document retention/destruction policies, procedures and practices at all times relevant to the period under investigation (1945 to present), including an identification of all written documents concerning the policies, procedures and practices.

The following form of declaration must accompany all information submitted by Respondent in response to the Information Request:

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of

_____ and that the foregoing is complete, true, and correct.
Respondent

Executed on _____, 20__

Signature

Type Name

Title [if any]

SHPACK LANDFILL SUPERFUND SITE DESCRIPTION

The Shpack Landfill Superfund Site (“Site”) is located in both Norton and Attleboro, Massachusetts. The entire Site comprises approximately 9.4 acres of land, and is located on the Norton/Attleboro, Massachusetts town boundary line, on the southerly side of Union Road in Norton and Peckham Street in Attleboro. The Site includes both the “Shpack Parcel” in Norton and the “Dumont Parcel” in Attleboro, as described below.

Shpack Parcel. Approximately 6.0 acres of the Site are situated in Norton on land formerly owned by Lea Shpack and Isadore Shpack that is currently owned by the Town of Norton. This portion of the Site is bounded by Union Road and the former Shpack residence to the northwest, Chartley Swamp to the east/southeast, and the Norton-Attleboro town line to the south/southwest. This portion of the Site may also be described as a portion of Lot No. 2 on the Norton Tax Assessors Map No. 26. (The 6.0 acre portion of the Site is referred to herein as the “Shpack Parcel.”)

Dumont Parcel. Approximately 3.4 acres of the Site are located in Attleboro, on land formerly owned by Albert Dumont that is currently owned by Attleboro Landfill, Inc. (“ALI”), which is also described as Lot No. 4A on Plat No. 209 of the Attleboro Assessors Office. This portion of the Site is roughly triangular in shape and consists approximately of the area bounded by Peckham Street to the north/northwest, the Attleboro-Norton town line to the east/northeast, and a line between Peckham Street and the Attleboro-Norton town line, slightly to the north of, and roughly parallel to, the southern edge of the New England Power Company easement (“Powerline Easement”). The Powerline Easement is shown in the Bristol County, Northern Division Registry of Deeds, Plan Book No. 82, Page 25, and is also shown on the aforementioned tax assessment maps. This 3.4 acre parcel is also a portion of the approximately 55-acre Attleboro Landfill property. (The 3.4 acre portion of the Site is referred to herein as the “Dumont Parcel.”)

Historically, the entire Site has been used as a dump for the disposal of industrial and domestic waste. The Dumont Parcel received waste and was operated as an open burning dump for the City of Attleboro from approximately 1946 through 1965, when the Town of Norton sought an order to ban the burning of waste. The Shpack Parcel received waste from approximately 1946 through 1975. Bulldozers would periodically level the land on the Dumont Parcel without strict adherence to property boundaries. As a result, wastes originally disposed on each of the two contiguous parcels were commingled.

The Site was proposed for inclusion on the National Priorities List (“NPL”) in October, 1984 and was listed on the NPL in June, 1986. Contaminants found at the Site include volatile organic compounds (“VOCs”), semi-volatile organic compounds (“SVOCs”) and polychlorinated biphenyls (“PCBs”), as well as heavy metals and radiological compounds. EPA issued a Remedial Investigation/Feasibility Study for the Site in June 2004. On September 30, 2004, EPA issued its remedial action decision for the Site which is embodied in the Record of Decision. A copy of the Record of Decision (which includes a map of the Site) is found at:

<http://www.epa.gov/region01/superfund/sites/shpack/214530.pdf>.

INFORMATION REQUEST INSTRUCTIONS

1. Answer Every Question Completely. You are required to provide a separate answer to each and every question and subpart of a question set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to the penalties set out in the cover letter.
2. Number Each Answer. Number each answer with the number of the question to which it corresponds.
3. Provide Information about the Period Being Investigated. You are required to answer each question with respect to the period being investigated, unless the question specifically states otherwise. If the response fails to address the period being investigated, EPA will consider this a failure to comply with the request and may take action against you for this noncompliance.
4. Provide the Best Information Available. You must provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
5. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
6. Submit Documents with Labels Keyed to Question. For each document produced in response to this Information Request, indicate on the document (or in some other reasonable manner) the number of the question to which it responds.
7. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA. Failure to supplement your response within 30 days of discovering such responsive information may subject you to \$32,500 per day penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. If any part of the response to this Information Request is found to be false, the signatory to the response and the company may be subject to criminal prosecution.
8. Complete the Enclosed Declaration. You are required to complete the enclosed declaration which certifies that the information you are providing in response to this Information Request is true, accurate, and complete.
9. Confidential Information. The information requested herein must be provided even though

you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret" or "proprietary" or "company confidential." Personal financial information, including individual tax returns, may also be claimed as confidential. In addition, please note that you bear the burden of substantiating your confidentiality claim. Your claim of confidentiality should be supported by the submission of information supporting such a claim; the type of information to be submitted is set out in 40 C.F.R. Part 2. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. **If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.** You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

10. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors listed in the attached EPA Contractor List for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

11. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information." You should note however, that unless prohibited by law, EPA may disclose this information to the general public without further notice to you. (Please see Instruction 9 for information concerning treatment of individual tax returns.)

12. Objections to Questions. While the Respondent may indicate that it objects to certain questions in this Information Request, it must provide responsive information notwithstanding those objections. To object without providing responsive information may subject Respondent to the penalties set out in the cover letter.

13. Claims of Privilege. If you claim that any document responsive to this Information Request is a communication for which you assert that a privilege exists for the entire document, identify (see Definitions) the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege, identify the portion of the document for which you are asserting the privilege, and provide the basis for such an assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Information Request must be disclosed in your response.

EPA CONTRACTOR LIST

Updated February 16, 2006

CONTRACTOR

CONTRACT NUMBER

Arctic Slope Regional Corp.(ASRC) Aerospace
Effective: September 5, 2002

Contract No.: 68-R1-02-01

Booz, Allen & Hamilton
Effective: January 1, 2004

EPA IAG No. DW-47-94028501-3

TechLaw, Inc.
Effective: July 12, 1999

GSA Contract No.: GS-10F-0168J

James Kerr and Associates, LLC
Effective: September 4, 2003

INFORMATION REQUEST DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. Section 9601 et seq., RCRA, 42 U.S.C. Section 6901 et seq., or Volume 40 of the Code of Federal Regulations (CFR), in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "you" or "Respondent" shall mean Teknor Apex Company, Inc. its officers, managers, employees, contractors, trustees, successors, assigns, and agents, and any predecessor or successor corporations or companies, including but not limited to the Thompson Companies, the Thompson Chemical Company, Apex Tire and Rubber Companies, and Thompson Apex.

2. The terms "document" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include but not be limited to:

- (a) writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including (by way of illustration and not by way of limitation) any of the following:
 - 1. invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order;
 - 2. letter, correspondence, fax, telegram, telex, Email;
 - 3. minutes, memorandum of meetings and telephone and other conversations, telephone messages;
 - 4. agreement, contract, and the like;
 - 5. log book, diary, calendar, desk pad, journal;
 - 6. bulletin, circular, form, pamphlet, statement;
 - 7. report, notice, analysis, notebook;
 - 8. graph or chart; or
 - 9. copy of any document.
- (b) microfilm or other film record, photograph, or sound recording on any type of device;
- (c) any tape, disc, or other type of memory generally associated with computers and data processing, together with:
 - 1. the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory; and
 - 2. printouts of such punch card, disc, or disc pack, tape or other type of memory; and

- (d) attachments to or enclosures with any document as well as any document referred to in any other document.

3. The term "identify" or "provide the identity of" means, with respect to a natural person, to set forth: (a) the person's full name, (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with job title, position or business; and (d) the person's social security number.

4. The term "identify" or "provide the identity of" means, with respect to a corporation, partnership, business trust, government office or division, or other entity (including a sole proprietorship), to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g. corporation, partnership, etc.); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.

5. The term "identify" or "provide the identity of" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressor, addressee and/or recipient; (e) and a summary of the substance or the subject matter. Alternatively, Respondent may provide a copy of the document.

6. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.

7. The terms "the period being investigated" and "the relevant time period" shall mean the period being investigated for either the Dumont Parcel and/or the Shpack Parcel as specified on the first page of the Information Request Questions.

8. The terms "the Site" or "the facility" shall mean and include the property on or about the approximately 9.4 acres of land in Norton and Attleboro, Massachusetts currently identified by EPA as the Shpack Landfill Superfund Site, which is more fully described in the enclosed Site Description.

9. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, radiological materials, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.

10. The term "Shpack Parcel" shall mean and include the portion of the Site that is located on or about approximately 6.0 acres of land in Norton, Massachusetts, and is more fully described in the enclosed Site Description.

11. The term "Dumont Parcel" shall mean and include the portion of the Site that is located on or about approximately 3.4 acres of land in Attleboro, Massachusetts, and is more fully described in the enclosed Site Description.

END OF THE INFORMATION REQUEST
THANK YOU FOR YOUR ASSISTANCE IN THIS MATTER

Teknor Apex
Response
5/06

From: Origin ID: (401)453-6400
Laurel Drach
CHACE RUTTENBERG & FREEDMAN
ONE PARK ROW, SUITE 300

PROVIDENCE, RI 02903

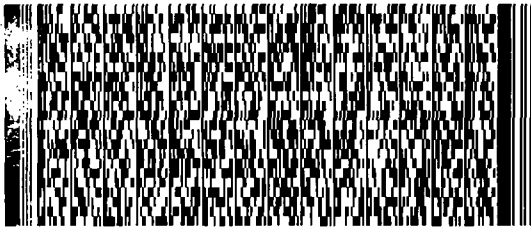


CLS422304/16/06

SHIP TO: (000)000-0000

BILL SENDER

Barbara O'Toole
U.S. Environmental Protect. Agency
Office of Site Remediation & Restor
One Congress Street, Suite 1100
Boston, MA 021142023



Ship Date: 26MAY06
ActWgt: 5 LB
System#: 2704077/INET2400
Account#: S *****

REF:



Delivery Address Bar Code

PRIORITY OVERNIGHT

TUE

Deliver By:
30MAY06

TRK# 7904 4421 7410

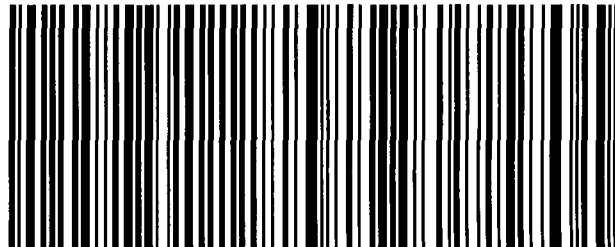
FORM
0201

BOS

A1

02114 -MA-US

ZB LWMA



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1. Use the 'Print' feature from your browser to send this page to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

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Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.